



Improving International Fisheries Management

2021 Report to Congress



NOAA
FISHERIES



REPORT TO CONGRESS

IMPROVING INTERNATIONAL FISHERIES MANAGEMENT

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I. Executive Summary

Under the High Seas Driftnet Fishing Moratorium Protection Act (Moratorium Protection Act) (16 U.S.C. §§ 1826h-1826k), Congress requires the Secretary of Commerce to submit a biennial report identifying nations or entities whose vessels have been engaged in illegal, unreported, and unregulated (IUU) fishing, bycatch of protected species, unsustainable fishing for sharks on the high seas, or whose own actions or failures undermine conservation measures of a regional fishery management organization (RFMO). After consulting with identified nations and entities on improving their relevant fisheries management and enforcement practices, the Secretary must certify in the next biennial report whether actions by the identified nations and entities have adequately addressed the activities of concern.

In its 2019 Biennial Report to Congress, the National Marine Fisheries Service (NMFS) identified Ecuador for failing to comply with enforcement requirements of an RFMO, Mexico for having vessels fishing illegally in U.S. waters, and the Republic of Korea for failing to apply sufficient sanctions to deter its vessels from violating measures adopted by an RFMO. As required by the Moratorium Protection Act, Chapter IV of this report contains NMFS' certification determinations for those nations. Ecuador and the Republic of Korea receive positive certifications on the basis of their corrective actions to address the activities for which they were identified in 2019. Mexico receives a negative certification because it did not take effective corrective action to address the increasing number of incursions and of repeat offenders.

In Chapter V of this report, NMFS identifies seven nations and entities for activities related to IUU fishing: China, Costa Rica, Guyana, Mexico, the Russian Federation, Senegal, and Taiwan. Reasons for these identifications include illegal fishing in U.S. waters, fishing in violation of RFMO measures (including several shark conservation measures), failure to investigate violations or take appropriate corrective actions, and failure to provide required data to an RFMO.

Another basis for identification is bycatch of protected living marine resources (PLMRs). NMFS identifies Mexico for bycatch of a PLMR (North Pacific loggerhead sea turtles) shared with the United States, and for failure to adopt management measures comparable to those of the United States. Based on the criteria in 16 U.S.C. § 1826k and a number of practical considerations, for this report NMFS prioritized the examination of bycatch of sea turtles in longline tuna and tuna-like fisheries managed by three RFMOs. NMFS identifies the following 28 nations and entities for such bycatch in fisheries managed by one of the RFMOs: Algeria, Barbados, China, Côte d'Ivoire, Croatia, Cyprus, Egypt, European Union, France, Greece, Grenada, Guyana, Italy, Japan, Korea, Malta, Mauritania, Morocco, Namibia, Portugal, Saint Vincent and the Grenadines, Senegal, South Africa, Spain, Taiwan, Trinidad and Tobago, Tunisia, and Turkey.

The third basis for identification is the targeted or incidental catch of sharks on the high seas, if the nation or entity has not adopted a regulatory program meeting certain criteria. NMFS evaluated data on shark catches beyond any national jurisdiction for 41 nations and entities, and analyzed the legal requirements each nation or entity has adopted to ensure compliance with relevant RFMO measures for the conservation and management of sharks. NMFS concludes that

each nation and entity has a regulatory program comparable to that of the United States, and thus does not make any identifications for shark catches.

This report also provides updates to domestic, regional, and global efforts to combat IUU fishing, minimize bycatch of PLMRs, and conserve sharks. Among the most important developments during the past two years are the following:

- The International Commission for the Conservation of Atlantic Tunas (ICCAT) adopted comprehensive amendments to its Convention in 2019. The amendments clarify ICCAT's ability to manage a wider range of species, ensure that key fleets targeting ICCAT species are bound by its rules, and incorporate modern fisheries management concepts.
- The Maritime Security and Fisheries Enforcement Act (Maritime SAFE Act), enacted in 2019, supports a whole-of-government approach to counter IUU fishing and related threats to maritime security. The U.S. Interagency Working Group on IUU fishing, established pursuant to the Act, serves as the lead body for the U.S. government in coordinating collaborative actions, and facilitating communications and engagement with outside stakeholders and a variety of federal agencies.
- The 2019 Conference of the Parties to the Convention on International Trade in Endangered Species (CITES) adopted or strengthened a number of decisions aimed at protecting marine resources. One decision calls on Mexico to take urgent actions to address the illegal catch and trade of totoaba in a fishery whose bycatch is the critically endangered vaquita.
- The effects of the COVID-19 pandemic on international fisheries management during 2020 are evident throughout the report. Some meetings were cancelled or delayed; others were held virtually, with varying levels of success. Most meetings were subject to significantly scaled back agendas and shortened meeting times, which diminished the amount of work and decision-making that could be accomplished. Nevertheless, most RFMOs were able to complete essential actions to ensure that conservation and management measures did not lapse.

List of Acronyms

ACAP	Agreement on the Conservation of Albatrosses and Petrels
APEC	Asia-Pacific Economic Cooperation
BMI	Bycatch Mitigation Initiative (IWC)
CBP	U.S. Customs and Border Protection
CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CMM	Conservation and management measure
CMS	Convention on the Conservation of Migratory Species of Wild Animals
COFI	Committee on Fisheries of the FAO
CONAPESCA	Comisión Nacional de Acuacultura y Pesca (Mexico)
CoP18	18 th Conference of the Parties to CITES
CPCs	Contracting parties and cooperating non-contracting parties, entities, or fishing entities (ICCAT)
DWFDA	Distant Water Fisheries Development Act (Republic of Korea)
EBFT	Eastern Atlantic and Mediterranean bluefin tuna
EEZ	Exclusive Economic Zone
ESA	Endangered Species Act
EU	European Union
FAO	United Nations Food and Agriculture Organization
IATTC	Inter-American Tropical Tuna Commission
ICCAT	International Commission for the Conservation of Atlantic Tunas
IOTC	Indian Ocean Tuna Commission
IUU	Illegal, unreported, and unregulated (fishing)
IWC	International Whaling Commission
LOFF	List of Foreign Fisheries
MCS	Monitoring, control, and surveillance
MMPA	Marine Mammal Protection Act
MOU	Memorandum of understanding
MSA	Magnuson-Stevens Fishery Conservation and Management Act
MSRA	Magnuson-Stevens Fishery Conservation and Management Reauthorization Act
NAFO	Northwest Atlantic Fisheries Organization
NEAFC	North East Atlantic Fisheries Commission

NGO	Non-governmental organization
NMFS	National Marine Fisheries Service (a NOAA line office)
NOAA	National Oceanic and Atmospheric Administration (an agency of the Department of Commerce)
NPAFC	North Pacific Anadromous Fish Commission
NPFC	North Pacific Fisheries Commission
OFWG	Ocean and Fisheries Working Group (in APEC)
PLMRs	Protected living marine resources
PSMA	Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
RFMO	Regional fisheries management organization/arrangement
SCA	Shark Conservation Act of 2010
SCIC	Standing Committee on Implementation and Compliance (CCAMLR)
SIMP	Seafood Import Monitoring Program
SPRFMO	South Pacific Regional Fisheries Management Organization
UNGA	United Nations General Assembly
USCG	United States Coast Guard
VME	Vulnerable marine ecosystem
VMS	Vessel monitoring system
WECAFC	Western Central Atlantic Fishery Commission
WCPFC	Western and Central Pacific Fisheries Commission

II. Introduction

Since 2009, the Secretary of Commerce has submitted a report to Congress every two years, as required by the Moratorium Protection Act at 16 U.S.C. § 1826h.¹ There are three phases central to the report cycle: identifying nations and entities for relevant activities, undertaking consultations with identified nations and entities, and making certification decisions about identified nations and entities two years later.

The Secretary of Commerce has delegated the authority to identify and certify nations and entities under the Moratorium Protection Act to the National Oceanic and Atmospheric Administration (NOAA) Assistant Administrator for Fisheries (the Director of NMFS). This is NOAA's seventh biennial report to Congress; all previous reports are available online.²

A nation or entity is identified in this report if one or more of its fishing vessels have engaged in IUU fishing, or if the nation or entity violates conservation and management measures (CMMs) of an international fishery management agreement to which the United States is a party, among other reasons. A nation or entity may also be identified for fishing activities or practices by its vessels that result in bycatch of PLMRs, if particular criteria are met. Finally, a nation or entity may be identified for fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks, under certain circumstances. The Act requires that activities considered in making identification decisions for this report occurred during the preceding three years (2018, 2019, and 2020).

The report also describes consultations the United States undertook with nations identified in the 2019 Biennial Report to Congress to encourage them to take appropriate remedial measures. Finally, the report includes the required certifications as to those nations, based on whether a nation's actions subsequent to identification have adequately addressed the original activities of concern.

The United States is a party to numerous international fisheries agreements and is a member of, or has substantial interests in, many related multilateral organizations. The Moratorium Protection Act directs the Secretary of Commerce to take particular actions to improve the effectiveness of these international fishery management organizations in conserving and managing stocks under their jurisdiction. This report highlights efforts by the United States to strengthen international fisheries management and enforcement, particularly with regard to IUU fishing, bycatch of PLMRs, and shark conservation measures.

¹ In previous biennial reports to Congress, NMFS had used the public law citations for the relevant provisions under the Moratorium Protection Act. For ease of reference, NMFS will utilize the U.S. Code citations in this and future biennial reports to Congress. Congress has amended the Moratorium Protection Act four times. For details, see Appendix 2.

² Previous reports can be accessed on the NMFS website: <https://www.fisheries.noaa.gov/international/report-iuu-fishing-bycatch-and-shark-catch>

The Moratorium Protection Act further directs the Secretary of Commerce to encourage other nations and entities to take all steps necessary, consistent with international law, to adopt measures and policies that will prevent fish or other living marine resources harvested by vessels engaged in IUU fishing from being traded or imported into their jurisdictions. The Act calls on the Secretary of Commerce to provide assistance to nations or entities identified for certain activities, so they may qualify for positive certifications in the ensuing report. This report provides information on actions taken by NOAA to assist other nations or entities in achieving sustainable fisheries.

IUU fishing, bycatch of PLMRs, and inadequate shark conservation have detrimental effects on international living marine resources. For that reason, the Moratorium Protection Act requires that the report include the state of knowledge on the status of such resources³ shared by the United States or subject to treaties or agreements to which the United States is a party. The table with this information, available on the NMFS website, includes all fish stocks classified as overfished, overexploited, depleted, endangered, or threatened with extinction by any international or other authority charged with the management or conservation of those stocks.⁴ For each species, the table shows the status of each stock, the organization(s) that made the assessment, and applicable treaties.

In addition to the Moratorium Protection Act, the United States has other legal authorities to address IUU fishing, PLMR bycatch, or shark conservation. These include the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Lacey Act, the IUU Fishing Enforcement Act, the Marine Mammal Protection Act (MMPA), and the Endangered Species Act (ESA). Information on relevant legislation and associated activities can be found in the 2019 Biennial Report to Congress (pages 14-17)⁵ and in Appendix 2 of this report.

³ The statutory term “international living marine resources” is more inclusive than the term “protected living marine resources.” The latter includes only non-target species protected under U.S. law or international agreement that, except for sharks, are not managed under the MSA, the Atlantic Tunas Convention Act, or any other international fishery management agreement.

⁴ The international living marine resources table is available on the Report website: <https://www.fisheries.noaa.gov/international/report-iuu-fishing-bycatch-and-shark-catch>

⁵ National Marine Fisheries Service. “Improving International Fisheries Management. September 2019 Biennial Report to Congress Pursuant to Section 403(a) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.” pp 14-17. Available at: <https://www.fisheries.noaa.gov/international/report-iuu-fishing-bycatch-and-shark-catch>

III. Background

A. Process for Identification and Certification

Throughout the identification process, NMFS gathers information from many sources relevant to determining whether a nation or entity or its vessels have been engaged in activity that could lead to being identified. One data source NMFS uses is public input in response to a request published in the Federal Register. For this report, NMFS published a request for information on IUU fishing, PLMR bycatch activities, and shark fishing, on June 30, 2020.⁶ NMFS contacts nations or entities with activities that may qualify for identification, seeking additional information when necessary. This process is detailed in regulations implementing the Moratorium Protection Act (50 CFR Part 300, Subpart N).

The process also covers the post-identification and consultation period, after which NMFS provides a preliminary certification to an identified nation or entity, which has an opportunity to respond before the final certification is issued. If an identified nation or entity takes appropriate actions, it receives a positive certification. If it receives a negative certification, 16 U.S.C. § § 1826a-1826c (High Seas Driftnet Fisheries Enforcement Act) prescribes denial of port privileges for its fishing vessels. The High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. § § 1826d-1826k) authorizes other responsive measures as well.

B. Illegal, Unreported, and Unregulated Fishing

IUU fishing includes a broad range of fishing-related activities. Illegal fishing refers to fishing activities conducted in contravention of applicable laws and regulations, including those laws and rules adopted at the regional and international level. Unreported fishing refers to those fishing activities that are not reported or are misreported to relevant authorities in contravention of national laws and regulations or reporting procedures of a relevant RFMO. Finally, unregulated fishing occurs in areas, or for fish stocks, for which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with a nation's or entity's responsibilities under international law. Fishing activities are also unregulated when occurring in an RFMO-managed area and conducted by vessels without nationality, or by those flying a flag of a nation or fishing entity that is not party to the RFMO in a manner that is inconsistent with the conservation measures of that RFMO.

Nations and entities that engage in IUU fishing circumvent conservation and management measures, avoid the operational costs associated with sustainable fishing practices, and may benefit financially from exceeding harvesting limits. These activities undermine global efforts to sustainably manage shared fish stocks and deprive scientists of data needed to form sound fisheries conservation and management decisions. Those who engage in IUU fishing practices are also unlikely to observe rules designed to protect the marine environment and its resources from the harmful effects of fishing activities. Examples of such rules include restrictions on the harvest of juvenile fish, gear restrictions established to minimize waste and bycatch of non-target

⁶ Federal Register / Vol. 85, No. 126 / Tuesday June 30th, 2020 / Notices: <https://www.federalregister.gov/d/2020-14028>

species or harm to the ecosystem, catch limits, and prohibitions on fishing in known spawning areas.

By its very nature, IUU fishing is difficult to quantify. It can occur in capture fisheries both within areas of national jurisdiction and on the high seas and undermines the sustainability of fish stocks and the broader ecosystem. Because more than 3 billion people depend upon fish for food and nutrition, IUU fishing practices threaten food security and sustainability and undermine efforts to reduce global hunger and malnutrition, especially in developing countries. IUU fishing also threatens economic security, affecting livelihoods and potentially contributing to international conflict and conflicts between industrial and small-scale fishermen.

Combating a complex issue like IUU fishing requires engagement from a broad range of governments and entities. These include flag, coastal, port, and market States; international and intergovernmental organizations; the fishing, processing, distribution, and retail industries; non-governmental organizations (NGOs); financial institutions; insurers; and consumers. U.S. leadership in international efforts to combat IUU fishing supports the development and strengthening of numerous management tools. Among them are new agreements to manage fishing in previously unregulated areas; IUU vessel lists; port State controls;⁷ at-sea monitoring, control, and surveillance (MCS); market-related measures to help ensure compliance; improved data collection and reporting; and scientific and enforcement capacity-building assistance.

Section 1826j(a) (Moratorium Protection Act) requires the Secretary of Commerce to identify a nation or entity if any of its fishing vessels are engaged, or in the preceding three years have been engaged, in IUU fishing. Section 1826j(e) requires the Secretary of Commerce to publish a regulatory definition of “illegal, unreported, or unregulated fishing” that includes certain elements. The current definition is codified at 50 § CFR 300.201; elements included in that definition are described in Chapter V.A.

C. Bycatch of Protected Living Marine Resources

The bycatch of PLMRs, including incidentally caught or entangled sea turtles and marine mammals, is a serious management concern in international fisheries. Fisheries bycatch can lead to injury or mortality of protected species, resulting in significant negative consequences for the protected species as well as for overall marine biodiversity. Unsustainable bycatch of PLMRs undermines the ability of the United States and other nations and entities to conserve these resources and the environment they inhabit.

Section 1826k(a)(1) requires the Secretary of Commerce to identify a nation or entity for bycatch activities if: (1) fishing vessels of that nation or entity are engaged, or have been engaged during the preceding three years, in fishing activities or practices in waters beyond any national jurisdiction that result in bycatch of a PLMR, or beyond the exclusive economic zone (EEZ) of the United States that result in bycatch of a PLMR shared by the United States; (2) the relevant international organization for the conservation and protection of such resources or the relevant

⁷ Port State controls were strengthened by the entry into force of the PSMA in 2016. This agreement requires parties to take actions to prevent IUU fish and fish products from entering the stream of commerce.

international or regional fishery organization has failed to implement effective measures to end or reduce such bycatch, or the nation or entity is not a party to, or does not maintain cooperating status with, such organization; and (3) the nation or entity has not adopted a regulatory program governing such fishing practices designed to end or reduce bycatch that is comparable to that of the United States, taking into account different conditions.

The statutory definition of the term “PLMR” includes non-target fish, sea turtles, or marine mammals protected under U.S. law or international agreement, including the MMPA, ESA, Shark Finning Prohibition Act, and CITES. The term excludes species, except sharks, that are managed under the MSA, the Atlantic Tunas Convention Act, or any international fishery management agreement.⁸ The regulations define “bycatch” to mean “the incidental or discarded catch of protected living marine resources or entanglement of such resources with fishing gear” (50 CFR § 300.201).

The statutory definition of PLMRs does not currently include seabirds, but the conservation of seabirds—a matter of global concern—is an issue in which NMFS has been actively involved internationally due to the adverse effects of fishing activity on this resource. Section 316 of the MSA emphasizes the need for the Secretary of Commerce to work cooperatively with the Secretary of the Interior and industry, and within international organizations, to seek ways to mitigate seabird bycatch. Bycatch of seabirds may not serve as the basis for identification of a nation or entity under the PLMR provisions of the Moratorium Protection Act, but violations of seabird measures adopted by RFMOs of which the United States is a member could serve as the basis for identification under the Act’s IUU fishing provisions.

The United States continues to be a global leader in establishing international measures to reduce the bycatch of PLMRs through bilateral and multilateral efforts. In RFMOs and other international fora, the United States promotes the adoption and implementation of management measures that address harmful activities such as direct harvest and incidental entanglement. Bilateral engagement builds upon these efforts through capacity-building activities and diplomatic outreach focused on the reduction of bycatch mortality of PLMRs and seabirds. In addition, U.S. research efforts continue to advance fisheries science related to bycatch mitigation, which is critical to progress in multilateral fora. All of these efforts ultimately aim to promote a consistent framework of strong bycatch-related measures for all fishing vessels, similar to the robust regulatory program in place for U.S. fishing vessels to reduce bycatch.

D. Shark Conservation and Protection

The conservation and management of sharks is challenging due to their biological and ecological characteristics and the scarcity of reliable species-specific catch data. Many shark species are characterized by relatively slow growth, late maturity, and low reproductive rates, which make them particularly vulnerable to overexploitation and slow to recover once stocks are depleted. Concern has grown regarding the status of many shark stocks and their exploitation in global fisheries.

⁸ A list of PLMRs can be found at <https://www.fisheries.noaa.gov/international/report-iuu-fishing-bycatch-and-shark-catch>

There are three different ways a nation or entity could potentially be identified for shark catches in this report. The first is under the Moratorium Protection Act's IUU fishing provisions. The Shark Conservation Act of 2010 amended those provisions to specify that violation of shark conservation measures required under international fishery management agreements to which the United States is a party could be a basis for identification for IUU fishing (16 U.S.C. § 1826j(e)(3)(A)).

The second approach is under Section 1826k. The bycatch of sharks listed as PLMRs in waters beyond any national jurisdiction would be considered a basis for identification under 16 U.S.C. § 1826k(a)(1). Bycatch of sharks taken beyond the U.S. EEZ, if they are PLMRs shared by the United States, would also qualify for identification under that provision, under certain conditions.

The third approach is under the Shark Conservation Act, which under 16 U.S.C. § 1826k(a)(2) separately requires the Secretary of Commerce to identify nations and entities whose vessels are engaged, or have been engaged during the preceding three calendar years, in fishing activities or practices on the high seas that target or incidentally catch sharks, and where the nation has not adopted a regulatory program for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that is comparable to that of the United States, taking into account different conditions.⁹

The United States promotes the global conservation and sustainable management of sharks with ongoing multilateral and bilateral consultations regarding the development of international agreements consistent with the Shark Finning Prohibition Act. The United States works within RFMOs and other regional entities to facilitate shark research, data collection, monitoring, and management initiatives such as measures requiring the landing of sharks with fins naturally attached. In recent years, the United States has successfully led efforts to implement these measures within a number of RFMOs. Detailed information on the United States' bilateral and multilateral shark conservation and management efforts can be found in the annual Shark Finning Report to Congress.¹⁰

⁹ Because the shark-specific provisions of the statute are broader than those addressing PLMRs, NMFS addresses all high seas shark catches under 16 U.S.C. § 1826k(a)(2).

¹⁰ The annual Shark Finning Report to Congress can be found on the NMFS website: <https://www.fisheries.noaa.gov/resource/document/2018-shark-finning-report-congress>

IV. IUU Fishing Certifications

A. Ecuador: Positive Certification

Bases for 2019 Identification. NMFS identified Ecuador for failing to comply with Resolution C-11-07 (Resolution on the Process for Improved Compliance of Resolutions Adopted by the Commission) of the Inter-American Tropical Tuna Commission (IATTC). Resolution C-11-07 requires IATTC members to investigate possible cases of noncompliance with IATTC resolutions involving fishing vessels flagged to them and report the results of their investigations to the IATTC Director. Records from IATTC and correspondence between NMFS and Ecuador indicate that in 2016 and 2017, Ecuador failed to investigate numerous alleged violations of IATTC resolutions by vessels flying its flag. Specifically, Ecuador failed to investigate fully possible violations of IATTC Resolutions C-04-05, C-13-01, and C-17-02 by its flagged fishing vessels. The United States was particularly concerned about allegations of noncompliance with IATTC resolutions by Ecuador's purse-seine fleet, which comprises approximately 40 percent of the total number of purse-seine vessels currently authorized to fish for tunas in the Eastern Pacific Ocean. The United States was also concerned about recurrent vessel-specific issues that have been the basis for Ecuador's repeated identifications for IUU fishing in the 2011, 2013, 2015, 2017, and 2019 Biennial Reports to Congress.¹¹

Notification and Consultation. Ecuador was notified through a letter from the NOAA Assistant Administrator for Fisheries on September 12, 2019, and a diplomatic note from the Department of State dated September 24, 2019, of its identification for activities relating to IUU fishing. NMFS, the Embassy of Ecuador in Washington, DC, and the Vice Ministry of Aquaculture and Fisheries were the primary entities involved in the consultation.

The following lists the key communications between Ecuador and the United States during the consultation:

- After delay due to email communication issues, on November 14, 2019, Ecuador notified NMFS it would soon be providing information via formal correspondence.
- On March 31, 2020, Ecuador sent correspondence to NMFS outlining the various actions Ecuador is taking to strengthen its MCS measures and compliance efforts to bolster the government's response to IUU fishing.
- On May 8, 2020, Ecuador sent a copy to NMFS of the new Organic Law for the Development of Aquaculture and Fisheries (Ley Orgánica para el Desarrollo de la Acuicultura y Pesca), which was signed into law on April 21, 2020.
- On June 26, 2020, Ecuadorian and U.S. officials met via videoconference to discuss Ecuador's compliance at IATTC (particularly as it pertains to Resolution C-11-07) and Ecuador's new fisheries management law. Ecuador provided two presentations, one on each topic. Ecuador was represented by the Vice Minister of Aquaculture and Fisheries,

¹¹ National Marine Fisheries Service. "Improving International Fisheries Management. September 2019 Biennial Report to Congress Pursuant to Section 403(a) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006." pp 27-28. Available at: <https://www.fisheries.noaa.gov/international/report-iuu-fishing-bycatch-and-shark-catch>

the Undersecretary of Fisheries Resources, their staff, as well as staff from the Ecuadorian Embassy to the United States. The United States was represented by NMFS and the Department of State.

- On August 17, 2020, Ecuador shared with NMFS an executive summary of the Vice Ministry's Fishery Action Plan, which had been discussed during the June consultation.
- On September 15–16, 2020, the United States hosted a virtual fisheries policy bilateral meeting with Ecuador to discuss a variety of international fisheries management topics of mutual interest to the two nations. The Vice Minister provided an update that implementation of the new fisheries law was going well, despite delays and complications created by COVID-19. He also conveyed that Ecuador would be able to provide a further update on these efforts by November 2020, by which time the 180-day deadline for the implementation of the regulations associated with the new law would have passed.
- On January 18, 2021, NMFS sent correspondence to Ecuador requesting further information from the Vice Ministry regarding its Fishery Action Plan as well as compliance with IATTC reporting requirements.
- On March 22, 2021, the Vice Ministry of Aquaculture and Fisheries responded to the NMFS letter, answering questions related to the process by which Ecuador responds to observer reports provided by IATTC, and its progress toward implementing various aspects of the Fishery Action Plan, including updating the National Control and Inspection Plan and Procedural Guidance for the Opening of Administrative Fisheries Records.
- On March 24, 2021, Ecuadorian and U.S. officials met via videoconference to discuss Ecuador's recent correspondence, particularly Ecuador's process for considering and pursuing potential claims of noncompliance presented through the IATTC Compliance Committee and observer reports.

Corrective Actions. During the two-year consultation period following identification, Ecuador demonstrated increased and improved participation in the IATTC Compliance Committee process. This improvement is reflected in Ecuador's recent compliance questionnaires submitted to IATTC. Ecuador's annual compliance questionnaires for 2016 and 2017 reflected a "no response" answer to a significant portion of the cases of potential noncompliance identified by the IATTC Secretariat. This included a failure to investigate potential violation of IATTC Resolutions C-04-05, C-13-01, and C-17-02 by Ecuador's flagged fishing vessels.

The 2018 and 2019 annual IATTC compliance questionnaires show that Ecuador had been responsive to all new identified cases of potential noncompliance. Ecuador reports the majority of cases as under investigation and subject to administrative proceedings by the Fisheries Authority. For cases in which it was determined that no infraction was committed, Ecuador provided a detailed rationale for why the activity was not in contravention of a conservation and management measure (CMM). Ecuador's reporting in these cases relied on review of observer reports and appropriate post-deployment follow-up with the observer. These responses demonstrate an improvement in Ecuador's active participation in the IATTC compliance process and fulfillment of the requirements outlined in Resolution C-11-07.

In addition, Ecuador’s Vice Ministry of Aquaculture and Fisheries provided NMFS with information throughout the consultation period to clarify the specific process that the Fisheries Authority follows to pursue cases of potential noncompliance. Previous consultations with Ecuador revealed that the Fisheries Authority was constrained by a 60-day statute of limitations, within which a case of noncompliance would need to be opened for investigation. If an administrative file were not opened within this 60-day period, the case would automatically be dismissed.¹² With passage of the Organic Administrative Code in 2017, the Directorate of Legal Representation within the Vice Ministry of Aquaculture and Fisheries now has five years from the date of the infraction to open an administrative case, which is consistent with the U.S. statute of limitations for administrative enforcement cases. Once an administrative case is opened, the Directorate of Legal Representation has 12 months to carry out the administrative sanctioning process (including gathering evidence and allowing for an oral hearing and defense by the subject) and resolve the case. In formal written correspondence and in consultation meetings conducted via video conference, Ecuador confirmed that the average case can be effectively resolved within the 12-month administrative timeline. In addition, the Vice Ministry’s Director of Legal Representation confirmed that under the Organic Administrative Code, if a case is not resolved within the 12-month timeline, the Directorate of Legal Representation has the authority to reopen that case.

Additional Actions Taken by Ecuador. During the consultation period of this report, Ecuador updated its fisheries management law with the passage of the Organic Law for the Development of Aquaculture and Fisheries in April 2020. The law includes provisions for stricter fines and sanctions, enhanced MCS measures, at-sea and port inspections, and enhanced cooperation with RFMOs. Development of this new legislation was carried out in consultation with experts at FAO and the European Union’s Directorate General for Maritime Affairs and Fisheries. To complement the new law, the Vice Ministry developed a Fishery Action Plan and shared it with NMFS. The plan highlights Ecuador’s responsibilities and goals, provided by the new legislation, as a flag State, market State, and port State. The plan notes, of relevance to these consultations, issuance of a Procedural Guide for the Opening of Administrative Fisheries Records and updating the National Control and Inspection Plan.

The COVID-19 pandemic has caused delays in the administrative timeline for Ecuador to finalize implementing regulations, including the National Control and Inspection Plan and the Procedural Guide for the opening of Administrative Fisheries Records associated with the new legislation. Thus, it remains to be seen how provisions of the new legislation may result in continued progress for Ecuador's participation in the IATTC compliance process.

This is an improved process and framework within which Ecuador can respond to IATTC-identified cases of potential noncompliance, but it is not without continued areas of concern. NMFS remains concerned about the possibility of cases being dismissed if they are not resolved

¹² National Marine Fisheries Service. “Improving International Fisheries Management. January 2017 Biennial Report to Congress Pursuant to Section 403(a) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.” pp 37-38. Available at: <https://www.fisheries.noaa.gov/international/report-iuu-fishing-bycatch-and-shark-catch>

within the 12-month timeline. In addition, the structure and format of IATTC compliance questionnaires do not allow for differentiation or nuance to make clear whether a case was dismissed because it was determined that enforcement action was not necessary, or because the case could not be resolved within the 12-month administrative timeline. Thus, NMFS looks forward to following Ecuador's progress in implementing these new regulations, and its continued participation in and partnership toward strengthening the IATTC compliance process.

Certification. On the basis of the information provided, NMFS has determined that the government of Ecuador has taken appropriate corrective action to address the IUU fishing activities for which it was identified in 2019, namely the inadequate compliance with IATTC Resolution C-11-07. Ecuador's responses to new cases of potential noncompliance presented by IATTC and its constructive participation in the Compliance Committee demonstrate that Ecuador is adequately fulfilling its obligations under Resolution C-11-07. Notably, new regulations associated with Ecuador's Organic Law for the Development of Aquaculture and Fisheries (April 2020) were not yet promulgated at the time of publication of this report. NMFS anticipates tracking Ecuador's progress in implementing these new regulations and their effectiveness in formalizing and strengthening Ecuador's participation in the IATTC compliance process. Based on this finding, NMFS has made a positive certification determination for Ecuador.

B. Mexico: Negative Certification

Bases for 2019 Identification. NMFS identified Mexico for having vessels fishing illegally in U.S. waters in the Gulf of Mexico. Mexico was previously identified for this same issue in both 2015 and 2017. These vessels are known to catch finfish stocks that are regulated by the United States, including red snapper, as well as bycatch of protected sea turtles. NOAA, the National Park Service, and the Texas Parks and Wildlife Department have reported significant strandings of turtles on beaches in Texas. NOAA scientists contend that these strandings are in part the result of bycatch by Mexican vessels illegally fishing in U.S. waters. In 2016, the United States Coast Guard (USCG) apprehended 35 open-hulled vessels (known locally as *lanchas*) with indications of fishing activity in the U.S. EEZ. In 2017, there were 33 such cases. The gear type used by these *lanchas* is longline (monofilament with no wire leaders); the catch is predominantly red snapper. In addition, the USCG compiled 51 case packages detailing the *lanchas* apprehended during 2018. The USCG reports having apprehended a large number of Mexican nationals who are repeat offenders, some having been interdicted more than 20 times since 2014. Prosecution results shared by Mexico show certain Mexican nationals are amassing numerous fines for repeatedly fishing in U.S. waters.

Despite the increasing number of prosecutions by Mexico and the imposition of fines on Mexican nationals found guilty of fishing in U.S. waters, the United States remained concerned in 2019 that these actions had not yet had a material effect on the number of incursions. In addition, the United States imported 4,796,693 kilograms of fresh and frozen snapper from Mexico in 2018 (with a declared value of \$33,036,108), raising concerns that these imports may have included fish harvested illegally in U.S. waters. Based on previous consultations with Mexico on this issue prior to the analysis that led to the 2019 identification, it appeared that, while control of the licensed fleet may have improved, there continued to be an unlicensed fleet

that operated without meaningful monitoring or control by Mexico. The United States, particularly the USCG, consistently expended considerable resources and assumed significant operational risk to locate, deter, and interdict these vessels.

In the 2019 Biennial Report to Congress, NMFS made clear that, during the two-year consultation period, the United States would expect not just continued prosecutions in response to *lancha* incursions, but increased monitoring and control of *lanchas* by Mexico and improved compliance. NMFS noted that the United States expected a measurable change in the volume of Mexican *lancha* incursions into U.S. waters, as well as in the number of repeat offenders, as a result of the efforts described above, and any other efforts needed to demonstrate that Mexico took the necessary steps to curtail the illegal fishing activities of its vessels.

Implementing its stated intent in the 2019 Biennial Report to Congress, the United States closely monitored progress on, and the effectiveness of, the following:

- Mexico's cooperation in facilitating the safe and expedient transfer of Mexican nationals apprehended by the USCG for fishing illegally in U.S. waters to the appropriate Mexican authorities, including at-sea transfers where appropriate.
- Increased Mexican law enforcement presence in the shoreside areas used by *lancha* camps from which illegal fishing activity originates.
- Mexico's efforts to improve monitoring and control of its entire small-scale fleet, including through enforcement of its domestic vessel registry laws.
- Increased information sharing to support USCG interdiction of *lanchas* operating in the U.S. EEZ (for example, notification of northbound *lanchas* and vessel positional data, such as from automatic information system or vessel monitoring system (VMS) sources).
- Increased patrols (at least monthly) by Mexican law enforcement authorities along the maritime boundary in the Gulf of Mexico to deter northbound *lanchas*.
- Mexico's participation in regular planning meetings with the USCG and NOAA to coordinate operational actions and information sharing to deter and detect northbound *lanchas*.
- Mexico's efforts to ensure the snapper it exports was legally harvested by the authorized fleet of small-scale fishermen, as well as to support NMFS' efforts to identify and prevent the importation of illegally harvested fish.
- Mexico's continued efforts to prosecute and fine the Mexican nationals found guilty of fishing in U.S. waters, as well as efforts to improve the efficacy of such enforcement actions in preventing recidivism.

Notification and Consultation. Mexico was notified through a letter from the NOAA Assistant Administrator for Fisheries on September 12, 2019, and a diplomatic note from the Department of State dated September 24, 2019, of its identification as a nation whose vessels engaged in IUU fishing activity. NMFS, the Embassy of Mexico in Washington, DC, and the Comisión Nacional de Acuacultura y Pesca (CONAPESCA) were the primary entities involved in the consultation.

The following lists the key communications between Mexico and the United States during the consultation:

- On September 12, 2019, during the annual bilateral enforcement meeting in Mexico City, U.S. and Mexican officials discussed *lancha* incursions, actions that Mexico was taking, and how recurrences might lead to identification.
- On November 20, 2019, Mexican officials and NMFS met on the margins of the IATTC annual meeting to discuss the 2019 identification of Mexico.
- On February 6, 2020, U.S. and Mexican officials met in Silver Spring, Maryland, to launch the official consultation and begin outlining steps to address the illegal *lancha* incursions into the U.S. EEZ. Much of the focus was on improving transfer of those interdicted along with full case packages, to reduce recidivism and deter IUU fishing.
- On September 23, 2020, U.S. and Mexican delegations participated in a virtual bilateral fisheries meeting. The United States took the opportunity to caution the Mexican delegation that the number of incursions had not decreased, and that Mexico would likely receive a negative certification if the trend continued.
- On November 13, 2020, U.S. and Mexican officials met virtually to discuss the growing problem of illegal *lancha* incursions into the U.S. EEZ. The U.S. delegation again indicated that the numbers of apprehensions had not decreased and recidivism was increasing; it informed the Mexican delegation that, without corrective action by the Mexican government, a negative certification would be warranted.
- On January 7, 2021, CONAPESCA sent a letter to NMFS with explanations of efforts made by the Mexican government to address the illegal *lancha* activities. The correspondence indicated that all cases dating back to November 2017 were “in progress” and still open. Furthermore, the correspondence provided numerous reasons why the Mexican government has difficulty effectively prosecuting offenders and reducing recidivism.
- On March 4, 2021, NMFS sent a letter to CONAPESCA informing it that not only had the number of illegal *lancha* incursions increased in 2018 and 2019, but that the United States at that point had no record of completed prosecutions by the Mexican government for any of the individuals interdicted.
- On March 31, 2021, U.S. and Mexican officials met virtually to further discuss the lack of progress in decreasing the number of incursions and the potential for a negative certification. In fact, the recidivism rate for all interdictions in 2019 and 2020 was 87 percent, with 328 repeat offenders interdicted in 2019 and 278 in 2020.
- On April 9, 2021, CONAPESCA again sent a letter to NMFS to address the concerns listed in the 2019 identification.

Corrective Actions. CONAPESCA is working with the government of the State of Tamaulipas to permanently assign two state inspectors who will coordinate maritime and land activities between CONAPESCA and the Secretariat of the Navy. This will increase the staff designated by CONAPESCA to reinforce the inspection and surveillance actions to six federal fisheries officials. The intent is for CONAPESCA and the Navy to maintain close coordination with port officials.

CONAPESCA has provided information that describes aggressive efforts to observe and monitor fishing vessels in the affected area of the *lancha* incursion and policies that outline a strategy for future actions. The USCG, however, continues to apprehend *lanchas* with fishing gear and fish on board within the U.S. EEZ. Despite Mexico’s efforts, these measures have not resulted in any

decrease in the number of illegal *lancha* incursions into the U.S. EEZ. In fact, the number of incursions of Mexican vessels in 2020 was almost double that in 2019. From October 2019 to September 2020, 107 repeat offenders were apprehended, almost double the 63 repeat offenders apprehended during the same period in 2019 and 2020. During the six months ending in February 2021, the United States apprehended 84 repeat offenders.

The information provided by Mexico throughout this consultation period, including in its latest letter, does not provide sufficient documentation of progress in the items the United States flagged in the 2019 identification as requisites for a positive certification. Moreover, the U.S. government has repeatedly stressed that a positive certification would require an overall decrease in the number of Mexican *lancha* incursions into the U.S. EEZ, as well as a reduction in the number of repeat offenders.

Certification. During the two-year consultation process, Mexico has made some progress by initiating actions to address the concerns listed by the United States in the 2019 identification. The United States does not, however, possess sufficient evidence to support a determination that appropriate corrective actions have been taken to address this issue. NMFS has made a negative certification for Mexico until such time that there is sufficient evidence to support a positive certification, which will require a decrease in the number of Mexican *lancha* incursions into the U.S. EEZ, as well as a reduction in the number of repeat offenders. During the period for which the negative certification applies, appropriate restrictions on port access for Mexican vessels will be implemented and appropriate trade restrictions will be developed to recommend to the President, pursuant to the requirements of the Moratorium Protection Act and the High Seas Driftnet Fisheries Enforcement Act.

C. Republic of Korea: Positive Certification

Bases for 2019 Identification. The Republic of Korea was identified for failing to apply sufficient sanctions to deter its vessels from engaging in fishing activities that violate CMMs adopted by an international fishery management organization.

Records from the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), as well as information provided to CCAMLR and the United States by the Republic of Korea, indicate that two vessels flagged to Korea violated CCAMLR conservation measures in 2017 and that Korea did not take effective actions to address the violations. According to CCAMLR records and information provided by the Republic of Korea, in December 2017 the Korean fishing vessels *Southern Ocean* and *Hong Jin No. 701* set longline gear within 24 hours of a notified fishery closure, in violation of CCAMLR Conservation Measure CM 31-02.

While the Republic of Korea did take some actions to address these violations—including directing the vessels to return to port and suspending the Distant Water Fisheries License and Seafarers Certification of one of the vessels for 60 days at the end of the season—it did not assess any monetary or other sanctions against the vessel owners or operators, nor was the illegal catch confiscated. While the Distant Water Fisheries Development Act (DWFDA) included robust criminal penalties, it did not provide any administrative or other civil remedies.

Therefore, when the prosecutor declined prosecution due to insufficient evidence that the violation was intentional (*Hong Jin No. 701*), or suspended the indictment (*Southern Ocean*), there were no other mechanisms available for addressing violations or depriving the violators of the economic benefit of their illegal activity. Under Korean law, seizure and forfeiture of property was only available post-conviction. In addition, information previously provided by the Republic of Korea indicated that it had not fully implemented the CCAMLR catch documentation scheme for toothfish (CM 10-05). As a result, illegally harvested fish from the *Southern Ocean* and *Hong Jin No. 701* were able to enter international trade.

During consultations with the United States, Korea recognized the need for administrative enforcement authority to address cases involving vessels that have engaged in IUU fishing but that are inappropriate for criminal prosecution, as well as for enabling the government to deprive the violators of the economic benefit of their violations even when the catch cannot be confiscated.

Notification and Consultation. The Republic of Korea was notified through a letter from the NOAA Assistant Administrator for Fisheries on September 12, 2019, and a diplomatic note from the Department of State dated September 24, 2019, of its identification for activities relating to IUU fishing activity. NMFS, the Embassy of Korea in Washington, DC, and the Ministry of Oceans and Fisheries were the primary entities involved in the consultation.

The following lists the key communications between Korea and the United States during the consultation:

- On October 9, October 24, and October 31, 2019, the Republic of Korea sent correspondence notifying NMFS of the status of the steps taken by the Korean government to amend its legislation.
- On October 20, 2019, Korean officials and NMFS met on the margins of the CCAMLR annual meeting and discussed corrective actions that the Republic of Korea was undertaking.
- On November 7, 2019, a NMFS representative met with Embassy of South Korea representatives who provided a status update on the legislative process to amend the DWFDA.
- On November 15, 2019, NMFS representatives met with the Director General of the Overseas Fisheries and International Policy Bureau of the Ministry of Oceans and Fisheries, who provided a status update on steps to amend Korea's legislation.
- On November 20, 2019, the Republic of Korea submitted documentary evidence to NMFS of the final amended DWFDA.
- On January 21, 2020, NMFS informed the Republic of Korea by letter that those amendments were sufficient to merit a preliminary positive certification.
- On September 22, 2020, the Republic of Korea submitted a letter outlining steps to address the activities for which they were identified, including pilot programs for electronic monitoring on pelagic fishing vessels, and updates on legislative developments. Korea also provided information on the delicensing and scrapping of the *Oryong 721*, a Korean-flagged vessel that had conducted IUU fishing in the Western and

Central Pacific Fisheries Commission (WCPFC) Convention Area, as an example of implementation of its amended law.

- On November 9, 2020, the Republic of Korea submitted a second letter with updates on the prosecution of the *Oryong 721* case, development of electronic monitoring, and progress on implementing the DWFDA.
- On January 4, 2021, the Republic of Korea submitted a third letter with final disposition of the *Oryong 721* case.
- On February 4, 2021, the Republic of Korea submitted a fourth letter with updates on the electronic monitoring pilot program and highlighting bycatch policy for sea turtles, sharks, and marine mammals included in the DWFDA.
- On April 6, 2021, the Republic of Korea submitted a fifth letter with further updates on electronic monitoring and on Korea's intentions in implementing the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA) to further address IUU Fishing.

Corrective Actions. In November 2019, the Republic of Korea amended its legislation in response to the illegal fishing activities of its vessels, so that the government is now able to take action quickly and effectively when a vessel has been confirmed to have fished illegally. The amendments strengthen Korea's capability to deter and penalize IUU fishing by providing additional administrative enforcement authorities to ensure that vessels that have engaged in illegal fishing can be appropriately sanctioned and the violator deprived of the economic benefit of the catch. Furthermore, the Republic of Korea provided evidence that it is proactively implementing the new policy by delicensing and decommissioning a vessel caught fishing illegally.

Certification. On the basis of information provided, NMFS has determined that the Republic of Korea has taken appropriate corrective action to address the activities for which it was identified in the 2019 Biennial Report to Congress, namely by amending the DWFDA to effectively allow Korea to take actions that will deter vessels from engaging in IUU fishing. Based on this finding, NMFS has made a positive certification for the Republic of Korea.

V. Identifications

A. Illegal, Unreported, and Unregulated Fishing

Section 1826j(a) requires the Secretary of Commerce to identify a nation or entity if any of its fishing vessels are engaged, or have been engaged during the preceding three years, in IUU fishing. Section 1826j(e)(3) requires the Secretary to publish a regulatory definition of “illegal, unreported, or unregulated fishing” that includes, at a minimum, certain elements. NMFS regulations, at 50 CFR § 300.201, define IUU fishing as:

(1) In the case of parties to an international fishery management agreement to which the United States is a party, fishing activities that violate conservation and management measures required under an international fishery management agreement to which the United States is a party, including but not limited to catch limits or quotas, capacity restrictions, bycatch reduction requirements, shark conservation measures, and data reporting;

(2) In the case of non-parties to an international fishery management agreement to which the United States is a party, fishing activities that would undermine the conservation of the resources managed under that agreement;

(3) Overfishing of fish stocks shared by the United States, for which there are no applicable international conservation or management measures, or in areas with no applicable international fishery management organization or agreement, that has adverse impacts on such stocks; or,

(4) Fishing activity that has a significant adverse impact on seamounts, hydrothermal vents, cold water corals and other vulnerable marine ecosystems located beyond any national jurisdiction, for which there are no applicable conservation or management measures or in areas with no applicable international fishery management organization or agreement.

(5) Fishing activities by foreign flagged vessels in U.S. waters without authorization of the United States.

For this report, NMFS gathered information on incidents where CMMs adopted by RFMOs may have been violated in 2018, 2019, or 2020. NMFS began with a review of available RFMO materials, including annual reports, compliance committee meeting summaries, and IUU vessel lists. NMFS also reviewed reports from the USCG, foreign governments, the media, and NGOs. Finally, it considered information submitted in response to a June 2020 Federal Register notice soliciting information from the public on IUU fishing. If the RFMO compliance process failed to address violations of RFMO measures or other forms of IUU fishing, NMFS considered this to be a basis for identification.

NMFS is identifying six nations and one entity for activities relating to IUU fishing, as set out below. Additional issues of concern regarding IUU fishing activities, while not yet meeting the criteria for an identification in this report, may be found in Appendix 3.

1. China

NMFS is identifying China for having vessels that violated conservation measures adopted by the North Pacific Fisheries Commission (NPFC), WCPFC, IATTC, and ICCAT; and for failing to take appropriate corrective actions.

First, the current NPFC IUU vessel list includes a growing number of fishing vessels with evidence of Chinese registration for violation of a CMM regarding the harvest of species by unauthorized vessels (NPFC CMM 2017-02, currently addressed by CMM 2019-02). Three fishing vessels in 2018 and three fishing vessels in 2019 were observed by Japanese patrols operating in the NPFC Convention Area and added to the NPFC IUU vessel list for fishing without authorization. Each vessel presented characteristics that affiliated them with China, including broadcasting a Maritime Mobile Service Identity number utilizing the maritime identification digits allocated to China by the UN International Telecommunication Union (412). Five of the six vessels were observed flying the flag of China. While these types of activities were noted as an issue of concern in the 2019 Biennial Report to Congress, further analysis of the more recent NPFC compliance meetings leads NMFS to believe these are vessels entitled to fly the flag of China. As such, this issue now forms part of the basis for China's identification.

Second, in addition to the NPFC violations, in 2018, 2019, and 2020 crewmembers working aboard Chinese-flagged fishing vessels reported violations of transshipment and shark-related conservation measures in the WCPFC, IATTC, and ICCAT convention areas. The allegations are outlined below, organized by RFMO.

WCPFC. Crewmembers from 14 Chinese-flagged fishing vessels included in the WCPFC list of authorized fishing vessels and operating in the WCPFC Convention Area between February 2019 and August 2020 witnessed violations of CMMs related to sharks and transshipment (WCPFC CMM 2010-07, 5 percent fin-to-carcass ratio; CMM 2011-04, conservation of oceanic whitetip; CMM 2013-08, conservation of silky sharks; or CMM 2009-06, transshipment).

IATTC. Crewmembers from seven Chinese-flagged fishing vessels included in the IATTC list of authorized fishing vessels and operating in the IATTC Convention Area between February 2019 and October 2020 witnessed violations of CMMs related to sharks or transshipment (IATTC CMM C-11-10, conservation of oceanic whitetip; C-05-03, 5 percent fin-to-carcass ratio; or C-12-07, transshipment). In addition, on February 12, 2019, the NGO Sea Shepherd observed the F/V *Fu Yuan Yu 019*—a Chinese-flagged, IATTC-authorized fishing vessel—retrieving longline gear in the IATTC Convention Area about 400 miles southwest of the Mexican coast. Sea Shepherd witnessed the vessel using metal branch lines running directly from longline floats in violation of a CMM (C-16-05) that prohibits the use of this type of gear, known as shark lines.

ICCAT. Crewmembers from five Chinese-flagged fishing vessels included in the ICCAT list of authorized fishing vessels and operating in the ICCAT Convention Area between July 2018 and November 2020 witnessed violations of CMMs related to the conservation of several types of sharks and to transshipment (ICCAT Rec. 04-10, conservation of sharks; Rec. 09-07, thresher

sharks; Rec. 10-07, oceanic whitetip sharks; Rec. 10-08, hammerheads; Rec. 11-08, silky sharks; or Rec. 16-15, transshipment).

Although these activities were not evaluated through the WCPFC, IATTC, or ICCAT compliance evaluation processes, they constitute violations of the CMMs of those three RFMOs, and thus NMFS is identifying China for having vessels that engaged in IUU fishing.

Identification and next steps. Following identification in this report, China's 2023 certification will be based on evidence that China is upholding its flag State duties under Article 13 of the NPFC Convention on flag State duties, as there are currently at least 30 vessels on the NPFC IUU vessel list with evidence of Chinese registration. China's 2023 certification decision will also be based on evidence that China has taken steps to investigate these violations of WCPFC, IATTC, and ICCAT CMMs, and evidence that corrective actions were taken to address any substantiated violations.

2. Costa Rica

NMFS is identifying Costa Rica for failing to effectively manage and control its fleet and fisheries consistent with CMMs adopted by ICCAT, and for failing to provide essential statistical data and other required information to ICCAT. Costa Rica has not yet shown progress in addressing the issues documented in ICCAT compliance letters in both 2019 and 2020. Specific issues that led to the decision to identify Costa Rica in this report are outlined below.

Poor reporting to ICCAT, including catch data not submitted (Rec. 05-09). Costa Rica's limited and inconsistent reporting of statistical data on its catches of ICCAT species is a serious matter and constitutes noncompliance with ICCAT requirements. Costa Rica has not recorded Task I data in ICCAT's database for 2018 or 2019. Costa Rica has also failed to meet other ICCAT reporting requirements, including submission of its compliance tables, which should detail compliance with catch limits, or its annual report, which should describe actions taken by Costa Rica to implement ICCAT conservation and management measures. Note that Costa Rica is prohibited from retaining all ICCAT species per Rec. 11-15 until it reports its 2019 catch data to ICCAT.

Harvest of North Atlantic swordfish without quota. In a recent letter to ICCAT's Compliance Committee Chair, Costa Rica acknowledged landing 40 tons of swordfish in 2018, bringing its total overharvest to 120 tons. Costa Rica does not have a quota for North Atlantic swordfish (Rec. 17-02).

Extensive overharvest of Atlantic white marlin. ICCAT has established a rebuilding program for white marlin with an Atlantic-wide total allowable catch (TAC) of 355 tons. The TAC is intended to account for all sources of mortality from all contracting parties and cooperating non-contracting parties, entities, and fishing entities (CPCs), consistent with scientific advice. Pursuant to Rec. 19-05, CPCs without an allocation must limit their annual landings to a maximum of two tons of white marlin. In its 2020 billfish check sheet, Costa Rica acknowledged landing 35 tons of white marlin. This amount far exceeds its allowable harvest and accounts for roughly 10 percent of the Atlantic-wide TAC for this overfished stock. The United States is not aware of any steps Costa Rica has taken to implement the rebuilding

program for this stock, including provisions of Rec. 19-05 that require live release of longline-caught marlins, to the extent possible. As a result of many consecutive years of overfishing, Costa Rica's cumulative overharvest of white marlin totaled 194.54 tons in 2019.

Identification and next steps. Following identification in this report, Costa Rica's 2023 certification decision will be based on evidence of Costa Rica's progress in these categories:

- Improved data collection from its fisheries, including through implementation of ICCAT-required observer (Rec. 16-14) and logbook programs (Rec. 03-13), and enhanced reporting of species-specific statistical data and other ICCAT-required information (Rec. 05-09).
- Ceasing the harvest of North Atlantic swordfish and white marlin to begin the ICCAT-required process of paying back its previous overharvests, until it receives authorization from ICCAT to resume harvesting.

3. Guyana

NMFS is identifying Guyana for failing to effectively manage and control its fleet and fisheries consistent with CMMs adopted by ICCAT, and for failing to provide essential statistical data and other required information to ICCAT. Guyana has not yet shown progress in complying with ICCAT requirements by addressing the issues documented in ICCAT compliance letters in both 2019 and 2020. Specific issues that led to the decision to identify Guyana in this report are outlined below.

Poor reporting to ICCAT, including catch data not submitted or submitted late (Rec. 05-09).

Guyana's limited and inconsistent reporting of statistical data on its catches of ICCAT species is a serious matter; it does not comply with ICCAT requirements. In 2020 Guyana reported "zero catch" for 2019 in its official statistics provided to the Standing Committee on Research and Statistics. At the same time, Guyana's 2020 annual report to ICCAT acknowledges a total of 1,100,998 kilograms of scombrids and 775,407 kilograms of sharks harvested in 2019, and further states that the main species captured were bigeye tuna, yellowfin tuna, blue marlin, and swordfish. This included 355,645 kilograms of tunas (unspecified), 128,233 kilograms of marlins (unspecified), and 2,004 kilograms of swordfish.¹³ The recent trend of increasing catches without species-specific reporting poses a serious concern. Guyana's 2020 annual report states: "When comparing the total scombrids and sharks harvested to the previous year there were more than one hundred-percent increase for both species."

Extensive overharvest of Atlantic blue marlin and white marlin (Rec. 19-05). ICCAT has established rebuilding programs with Atlantic-wide TACs of 1,670 tons for blue marlin and 355 tons for white marlin. The TACs are intended to account for all sources of mortality from all contracting parties and CPCs, consistent with scientific advice. Pursuant to Rec. 19-05, CPCs without an allocation must limit their landings to a maximum of 10 tons of Atlantic blue marlin and two tons of white marlin. In a gross overharvest of this limit, Guyana harvested 128 tons of blue marlin in 2019; 68 tons of unspecified "billfish" were caught in 2018. The United States is

¹³ 2020 Annual Report of Guyana to ICCAT, Table 5

not aware of any steps Guyana has taken to implement the rebuilding programs for these stocks, including provisions of Rec. 19-05 that require live release of longline-caught marlins, to the extent possible.

Harvest of South Atlantic swordfish, an overfished stock, without quota (Rec. 17-03). Data reported by Guyana in statistical documents indicate it harvested two tons of swordfish in 2019. Guyana does not have a quota for this stock.

Poor implementation of and reporting on numerous shark requirements. Guyana acknowledges in its 2020 annual report to ICCAT that “sharks continue to be landed dressed, which poses a real problem for recording shark catches by individual species.” The sheer volume of sharks reportedly caught within Guyana’s EEZ without adequate identification to the species level is alarming (775 tons in 2019). Further, Guyana acknowledges that its “Fisheries Department has noted the increase in the export of shark fins to China,” but has no capability to implement Rec. 04-10, which prohibits the practice of shark finning and sets a maximum 5 percent fin-to-carcass ratio.

Identification and next steps. Following identification in this report, Guyana’s 2023 certification decision will be based on evidence of Guyana’s progress in these categories:

- Improved data collection from its fisheries, including through implementation of ICCAT-required observer (Rec. 16-14) and logbook programs (Rec. 03-13), and enhanced reporting of species-specific statistical data and other ICCAT-required information (Rec. 05-09).
- Ceasing the harvest of Atlantic blue marlin and white marlin to begin the ICCAT-required process of paying back its previous overharvests, which total 163 tons and 108 tons for white and blue marlin, respectively, and beginning species-specific reporting to ICCAT so that its compliance with these limits can be accurately evaluated for each of the overfished stocks.
- Ceasing the harvest of South Atlantic swordfish unless and until it receives authorization to do so from ICCAT.
- Implementation of, and improved reporting to the Commission on, ICCAT’s shark recommendations, including for North Atlantic shortfin mako (Rec. 19-06) and blue sharks (Rec. 16-12) and for those CMMs that prohibit retention of certain shark species in ICCAT fisheries, specifically bigeye thresher (Rec. 09-07), oceanic whitetip (Rec. 10-07), hammerhead (Rec. 10-08), and silky (Rec. 11-08). If Guyana wishes to claim exceptions to the retention prohibitions that exist for some of these species, it should report the required data and information to ICCAT to qualify for those exemptions. Further, Guyana should demonstrate that it is implementing Rec. 04-10, which prohibits shark finning and requires that the weight of fins landed does not exceed 5 percent of the weight of the carcasses at the first point of landing.

4. Mexico

NMFS is identifying Mexico for not taking effective flag State action to address its vessels illegally fishing in U.S. waters in the Gulf of Mexico. This same issue led to the identification of Mexico in the 2015, 2017, and 2019 Biennial Reports to Congress, and to a negative certification in this report.¹⁴

The USCG interdicted a total of 287 *lanchas* for suspicion of illegal fishing in 2018, 2019, and 2020 (Table 1). Based on the facts of each interdiction, the USCG prepared 248 case packages with evidence of illegal fishing. These case packages were delivered to the Government of Mexico for prosecution. In addition, many individual crew members have been interdicted more than 25 times with nearly half being interdicted more than five times, the average being seven.

Table 1. Annual *lancha* incursion interdictions, case packages, and repeat offenders.

	2018	2019	2020
EEZ Incursion Interdictions for Illegal Fishing	63	86	138
Case Packages Delivered to Mexico for Prosecution	55	64	129
Repeat Offenders: Individuals	201	328	278
Repeat Offenders: Total Detentions	262	376	318
Repeat Offender Rate (>1 Detention)	77%	87%	87%

Identification and next steps. Following identification in this report, Mexico’s 2023 certification decision will again be based on observing a measurable decrease in the volume of Mexican *lancha* incursions into U.S. waters, as well as in the number of repeat offenders. In particular, we will continue to monitor the progress made in, and Mexico’s demonstration of the effectiveness of, the following:

- Mexico’s cooperation in facilitating the safe and expedient transfer of Mexican nationals apprehended by the USCG for fishing illegally in U.S. waters to the appropriate Mexican authorities, including at-sea transfers where appropriate.
- Increased Mexican law enforcement presence in the shoreside areas used by *lancha* camps from which illegal fishing activity originates.
- Mexico’s efforts to improve monitoring and control of its entire small-scale fleet, including through enforcement of its domestic vessel registry laws.
- Increased information sharing to support USCG interdiction of *lanchas* operating in the U.S. EEZ (for example, notification of northbound *lanchas* and vessel positional data, such as from AIS or VMS sources).
- Increased patrols (at least monthly) by Mexican law enforcement authorities along the maritime boundary in the Gulf of Mexico to deter northbound *lanchas*.

¹⁴ Background information about this longstanding issue can be found on the NMFS website: <https://www.fisheries.noaa.gov/international/report-iuu-fishing-bycatch-and-shark-catch>

- Mexico’s participation in regular planning meetings with the USCG and NOAA to coordinate operational actions and information sharing to deter and detect northbound *lanchas*.
- Mexico’s efforts to ensure the snapper it exports was legally harvested by the authorized fleet of small-scale fishermen, as well as to support NMFS’ efforts to identify and prevent the importation of illegally harvested fish.
- Mexico’s continued efforts to prosecute and fine the Mexican nationals found guilty of fishing in U.S. waters, as well as efforts to improve the efficacy of such enforcement actions in preventing recidivism.

5. Russian Federation

NMFS is identifying the Russian Federation for having a vessel engaged in fishing activities that violated CCAMLR conservation measures in 2020 and for failing to take appropriate corrective actions. Further, the Russian Federation failed in 2019 and 2020 to adequately investigate allegations of a CCAMLR conservation measure violation resulting from an incident in 2017.

IUU Fishing by the F/V *Palmer*. In 2020, New Zealand reported to the CCAMLR Secretariat that the F/V *Palmer*, flagged to the Russian Federation, had been detected in Subarea 88.1 at a time when it was closed to all fishing (COMM CIRC 20/47), and asked that it be considered for addition to the Contracting Party IUU vessel list. New Zealand provided information obtained by the Royal New Zealand Air Force and submitted that:

- There is a discrepancy between the vessel location sighted by the patrol and that reported by the vessel through its VMS, suggesting that the VMS data had been falsified in violation of CCAMLR Conservation Measure 10-04 on automated satellite-linked VMS.
- There is a discrepancy between the entry and exit notifications and the confirmed vessel position, suggesting misreporting of entry/exit times, which violates the same measure.
- The vessel was identified as being in a closed fishery, on a productive fishing feature, with an ice cage deployed and operating at slow speed. This suggests that the vessel was fishing in violation of CCAMLR Conservation Measure 10-02 on licensing and inspection obligations of contracting parties with regard to their flag vessels operating in the Convention Area.

Actions and inactions by the Russian Federation. Based on this information, the U.S. Commissioner to CCAMLR transmitted a letter to the Russian Federation Commissioner to CCAMLR dated June 8, 2020. In this letter, the United States requested that the Russian Federation authorize the Secretariat to release VMS positional data for the F/V *Palmer* during the period of January 15, 2020 (consistent with the vessel’s exit notification from Subarea 88.1) to January 20, 2020. The United States also requested information on the status of any investigation concerning the alleged noncompliance by the F/V *Palmer*. The letter noted that, until the United States received information to resolve these questions, all shipments of Patagonian toothfish harvested by the F/V *Palmer* during the fishing period of December 1, 2019, to January 23, 2020, might be denied entry into U.S. commerce or subject to seizure and forfeiture under U.S. law. The Russian Federation did not respond to this letter. NMFS worked

with U.S. Customs and Border Protection to issue a Cargo Systems Messaging Service bulletin on July 6, 2020 that included these concerns about the F/V *Palmer*.

During the 2020 CCAMLR annual meeting, the Russian Federation claimed the vessel was innocent of these allegations, but offered no plausible exculpatory information, such as VMS positional data. Instead, it called into question New Zealand's sighting report without offering any credible evidence that the sighting was in error. The Russian Federation blocked the listing of the F/V *Palmer* on the Contracting Party IUU vessel list.

The Russian Federation was also the only CCAMLR member in 2019 that did not conduct a reliable investigation of its vessels operating in the area where fishing gear suspected of being set before the beginning of the 2017-2018 season was found. All other members operating in the area where the gear was found provided sufficient evidence to the Standing Committee on Implementation and Compliance (SCIC) (including the release of their vessels' VMS data, which were compiled into a video by the Secretariat) to exonerate their vessels. The Russian Federation refused to release the VMS data for the F/V *Palmer*, the only other vessel operating in the area. In addition, photos from a New Zealand port inspection conducted prior to the vessel commencing fishing for the season showed that the F/V *Palmer's* fishing gear had characteristics similar to the discovered gear, and looked nothing like the photos of the gear the Russian Federation provided in an effort to exonerate the F/V *Palmer*. This further discredited the Russian Federation's investigation.

At the 2019 annual meeting of CCAMLR, some members, while welcoming Russia's commitment to undertake further evaluation of the information submitted by New Zealand, requested that the Russian Federation include in its analysis further elements such as detailed VMS data for the time period November 18 to 30, 2017; observer information on the F/V *Palmer*, including any photographs of their fishing gear; daily catch and effort reports and other data from the F/V *Palmer*; as well as relevant imagery from inspection of the vessel conducted by any member.

The Russian Federation agreed to evaluate these elements and provide an update, at the latest, 45 days prior to the next SCIC meeting in 2020. The Russian Federation's response, however, did not provide any of the elements outlined above, nor was it submitted by the required date.

Identification and next steps. NMFS considers the F/V *Palmer's* illegal activities during the 2019-2020 season to be egregious. When considered alongside the apparent pre-season fishing activity discussed during the SCIC-2019 meeting, they suggest a pattern of illegal conduct by this vessel. Unfortunately, the Russian Federation's response to New Zealand's report suggests the government may not be taking such reports seriously, as they are not conducting thorough investigations into reports of illegal activity; not granting SCIC and the Commission access to relevant data to support compliance evaluation; and not holding its flagged vessels, including the F/V *Palmer*, accountable for illegal fishing activity. The Russian Federation's 2023 certification decision will be based on how it investigates and responds to the results of the investigation into these violations, as required by CCAMLR Conservation Measures 10-06 and 10-08.

6. Senegal

NMFS is identifying Senegal for having vessels that violated ICCAT conservation measures and for failing to take appropriate corrective actions. Senegal claims that a vessel placed on the ICCAT IUU vessel list for unauthorized fishing in the ICCAT Convention area in 2020 was de-flagged prior to its listing. However, Senegal has failed to produce evidence in support of this claim. Senegal has also failed to fully investigate evidence of unauthorized transshipment by one of its vessels in 2020. Further, crewmembers working aboard a Senegal-flagged fishing vessel reported violations of shark-related conservation measures and transshipment controls.

IUU fishing by the F/V *Mario No. 11*. A USCG patrol on May 6, 2020, sighted the F/V *Mario No. 11* approximately 343 nautical miles north of the British Virgin Islands. This location is on the high seas within the ICCAT Convention Area. At the time, the F/V *Mario No. 11* was on the ICCAT-authorized vessel list for longline fishing and flagged to Senegal. The USCG made contact via VHF radio but, due to language barriers, was not able to discern any pertinent information from the vessel concerning its activities. The USCG observed approximately 250 shark fins strung from lines throughout the vessel's decks, which called into question the vessel's adherence to ICCAT's shark-related CMM (Rec. 04-10). The United States wrote to Senegal, asking it to provide all relevant information on the vessel in question.

According to Senegal's response, a preliminary investigation revealed that the F/V *Mario No. 11* was "under a procedure of cancellation of the Senegal flag since January 7, 2020," and did not hold a valid license; its whereabouts were unknown. NMFS worked with U.S. Customs and Border Protection to issue a Cargo Systems Messaging Service bulletin that included U.S. concerns with the F/V *Mario No. 11*. In addition, the United States proposed that the F/V *Mario No. 11* be posted to the ICCAT IUU vessel list as a vessel flagged to Senegal. Further, the United States requested documentation showing whether the vessel had been deregistered by Senegal. Since Senegal failed to provide this documentation, the F/V *Mario No. 11* was formally added to the ICCAT IUU vessel list as flagged to Senegal. Senegal's failure to provide evidence of the vessel's claimed flag State deregistration indicates that Senegal is unable to meet provisions of an ICCAT measure (Rec. 13-13) requiring parties to take measures under their applicable legislation to prohibit fishing for, retaining on board, transshipment of, and landing of tuna and tuna-like species by large-scale fishing vessels that are not entered into the ICCAT record.

IUU fishing by the F/V *Maximus*. On March 28, 2020, the USCG sighted the F/V *Maximus* approximately 119 nautical miles east of the U.S. EEZ. This location is on the high seas within the ICCAT Convention Area. At the time, the vessel was on the ICCAT-authorized vessel list for longline fishing and flagged to Senegal. However, based on deck gear and track history, the F/V *Maximus* exhibited strong evidence of conducting transshipment operations without appropriate authorization in violation of ICCAT Rec. 16-15. The United States wrote to Senegal and provided all relevant information on the vessel in question.

Senegal responded that it believed the vessel operated legally and provided a static screenshot of the vessel's VMS track as evidence. But, without more detailed VMS data or a more robust explanation of investigative findings, NMFS cannot satisfactorily exculpate the vessel. That would require additional cooperation from Senegal.

IUU fishing by other vessels. Finally, crew testimonies reported by Greenpeace in “Choppy Waters: Forced Labor and Illegal Fishing in Taiwan’s Distant Water Fisheries,” stated that the Senegal-flagged F/V *Lisboa* picked up shark fins from the Taiwan-flagged F/V *Wei Ching*. Other crew testimonies reported this vessel received shark fins from four Chinese-flagged longline vessels included in the ICCAT list of authorized fishing vessels. According to the Consolidated List of Authorized Vessels for tuna RFMOs, the F/V *Lisboa* is a Senegal-flagged fishing vessel authorized for longline fishing in the ICCAT Convention Area from April 2018 to April 2020. The crew testimonies described a violation of ICCAT measures on transshipment (Rec. 16-15) and on sharks caught in association with fisheries managed by ICCAT (Rec. 04-10).

NMFS notes with concern that the F/V *Mario No. 11*, F/V *Maximus*, and F/V *Lisboa* share ownership ties to the same Senegal-based company, Hsin Fei Trading Investment Co. Ltd. This company is also listed as the owner of the Senegal-flagged F/V *Mario No. 7* and F/V *Diamalaye*, which Senegal authorized to fish in the ICCAT Convention Area sometime between 2018 and 2020. In addition, NMFS remains concerned when nations use flag State deregistration as a primary sanctioning tool instead of employing proper flag State control measures.

Identification and next steps. Following identification in this report for IUU fishing activities of its vessels and for the nation’s failures to control its vessels, Senegal’s 2023 certification decision will be based on evidence that it has taken steps to investigate these violations of ICCAT measures, and evidence that corrective actions were taken to address any substantiated violations. Considering the common ownership ties with the vessels in question, a particular focus will be placed on Senegal’s adherence to Rec. 06-14, on promoting compliance by nationals with ICCAT measures.

7. Taiwan

NMFS is identifying Taiwan for having vessels that violated conservation measures in the WCPFC, IATTC, and ICCAT convention areas in 2018, 2019, or 2020 and for failing to take appropriate corrective actions. NGOs interviewed crewmembers working aboard Taiwan-flagged fishing vessels at the conclusion of their contracts,¹⁵ and provided NMFS with allegations that many Taiwan fishing vessels violated conservation measures of WCPFC, IATTC, or ICCAT. The crewmembers reported violations of transshipment and shark-related conservation measures during those years. The allegations are described below, organized by RFMO.

WCPFC. Crewmembers from nine Taiwan-flagged fishing vessels included in the WCPFC list of authorized fishing vessels and operating in the WCPFC Convention Area between January 2018 and July 2020 witnessed the vessels failing to adhere to several shark-related CMMs (WCPFC CMM 2010-07, 5 percent fin-to-carcass ratio; CMM 2011-04, conservation of oceanic whitetip; or CMM 2013-08, conservation of silky sharks).

¹⁵ These interviews were conducted as part of an investigation by NGOs into labor abuses aboard fishing vessels.

IATTC. Crewmembers from two Taiwan-flagged fishing vessels included in the IATTC list of authorized fishing vessels and operating in the IATTC Convention Area between January 2018 and January 2020 witnessed vessels violating shark-related CMMs (IATTC C-11-10, conservation of oceanic whitetip, or C-05-03, 5 percent fin-to-carcass ratio).

ICCAT. Crewmembers from two Taiwan-flagged fishing vessels included in the ICCAT list of authorized fishing vessels and operating in the ICCAT Convention Area between January 2019 and September 2019 witnessed violations of ICCAT measures related to shark conservation (Rec. 04-10) or transshipment (Rec. 16-15). According to the Greenpeace report, “Choppy Waters: Forced Labor and Illegal Fishing in Taiwan’s Distant Water Fisheries,” the Taiwan-flagged F/V *Wei Ching* and one yet-to-be-named Taiwan-flagged longliner were the fishing vessels involved.

Identification and next steps. Although these activities were not addressed through the WCPFC, IATTC, or ICCAT compliance processes, they constitute violations of the CMMs of those three RFMOs, and thus NMFS identifies Taiwan for having vessels that engaged in IUU fishing. Following identification in this report, Taiwan’s 2023 certification decision will be based on evidence that Taiwan has taken steps to investigate these violations of RFMO conservation and management measures, and evidence that corrective actions were taken to address any substantiated violations.

B. Bycatch of Protected Living Marine Resources

NMFS is identifying one nation, Mexico, for bycatch of a shared PLMR (North Pacific loggerhead sea turtles) in a coastal fishery, and for failure to adopt management measures comparable to those of the United States to reduce or minimize that bycatch. NMFS is also identifying 28 nations and entities for bycatch of sea turtles in longline fisheries managed under ICCAT, an RFMO that has failed to implement effective measures to reduce such bycatch. In addition, the 28 identified nations and entities have not adopted regulatory measures that are comparable in effectiveness to those of the United States to reduce or end bycatch of PLMRs. Those 28 nations and entities being identified for bycatch of sea turtles in longline fisheries managed under ICCAT are: Algeria, Barbados, China, Côte d'Ivoire, Croatia, Cyprus, Egypt, European Union, France, Greece, Grenada, Guyana, Italy, Japan, Korea, Malta, Mauritania, Morocco, Namibia, Portugal, Saint Vincent and the Grenadines, Senegal, South Africa, Spain, Taiwan, Trinidad and Tobago, Tunisia, and Turkey.

Data collection. NMFS examined three years of fisheries data for the 2021 Biennial Report to Congress, specifically 2018, 2019, and 2020. Since the Moratorium Protection Act was passed, NMFS has collected significant amounts of information on activities resulting in bycatch from numerous sources, including government and academic studies, relevant international organizations, NGOs, and the media. In addition, NMFS also considered any relevant and available information provided by the public through its solicitation process published in the Federal Register in June 2020. NMFS’ team of subject-matter experts examined the bycatch in question and any relevant regulations or management measures.

As explained in the 2019 Biennial Report to Congress, NMFS has faced challenges in finding reliable documentary evidence of bycatch incidents on a global or fishery-wide basis. This limitation is due to deficiencies in data collection programs, delays in data publication, and inconsistencies in data reporting. The biggest obstacle to identification in the past has been a lack of available documented bycatch data within the three years preceding the report that can be attributed and verified at a nation or entity level. Few nations or entities report their bycatch data widely, and so the most reliable available bycatch information is usually from scientific or grey literature. Information from those sources is usually not available during the relevant timeframe, nor is it often attributable to specific vessels or fisheries. Use of other data sources, such as information voluntarily reported to RFMOs, has the risk of allowing nations and entities who have bycatch but do not report it to evade identification under the Moratorium Protection Act, while also serving as a disincentive for future reporting. Simply put, verifiable and robust data are typically not available for international bycatch within the three-year timeframe specified by the statute.

In the 2019 Biennial Report to Congress, NMFS committed to explore alternative sources of bycatch information to inform the identification process. For this report cycle, in addition to the universal data search detailed above, NMFS also considered those fisheries where vessels had actively engaged in fishing practices that evidence has shown causes bycatch of PLMRs. To that end, for this report cycle, NMFS examined fisheries where foreign vessels are using the same gear or practices as U.S. vessels that are known to have bycatch, and where foreign vessels are operating in the same areas as U.S. vessels with known incidents of bycatch. This analysis examines bycatch on a fishery-by-fishery basis, rather than bycatch by individual vessels.

This approach significantly increased the scope of potential fisheries—and, therefore, nations and entities—that could be considered under the identification process, as most fisheries utilize practices that can result in bycatch of a PLMR. Recognizing the need, therefore, to set priorities for identifications, NMFS examined those fisheries that are the most likely to have deleterious impacts on PLMRs due to bycatch. NMFS also considered PLMRs that are not being addressed by other U.S. regulatory programs. Finally, NMFS considered those fisheries where the United States has a strong conservation nexus or direct management interest.

In coordination with the Department of State, NMFS sent letters to relevant nations and entities requesting information about their regulatory programs to end or reduce bycatch of sea turtles in the relevant fisheries. Questions included what measures each nation or entity had in place to assess and mitigate bycatch, as well as procedures to minimize mortality of bycaught sea turtles. NMFS also specifically asked nations and entities for their domestic regulations that implement relevant RFMO CMMs.

Comparability analysis. Identification under Section 1826k is a multi-stage process. First, NMFS determines whether fishing vessels of a nation or entity are, or have been, engaged in fishing activities or practices that result in bycatch of a PLMR in waters beyond any national jurisdiction, or a PLMR shared by the United States beyond the U.S. EEZ. As noted above, NMFS considered this criteria to be met in a fishery where foreign vessels are using the same gear or practices as U.S. vessels that are known to have bycatch, and where foreign vessels are operating in the same areas as U.S. vessels with known incidents of bycatch. Second, NMFS

ascertains whether there is an RFMO with management competency for that fishery and, if so, whether that RFMO has implemented effective measures to end or reduce that bycatch, and whether the nation or entity is a member of, or cooperating non-member to, the RFMO. Third, if there is no RFMO, the RFMO has not taken effective action, or the nation or entity is not a party or cooperating non-party, NMFS verifies whether the nation or entity has adopted bycatch regulations comparable in effectiveness to those of the United States. In making these determinations, NMFS takes into account differing conditions that could bear on the feasibility and efficacy of measures to end or reduce bycatch of the pertinent PLMRs, as well as all other relevant matters including the history, nature, circumstances, extent, duration, and gravity of the bycatch activity in question.

The identification process differs in the evaluation of RFMO management measures versus those of nations and entities. Under the Moratorium Protection Act, RFMOs are required to have adopted measures that are effective in reducing or ending bycatch, whereas nations and entities must adopt measures to end or reduce bycatch that are comparable in effectiveness to those of the United States.

Nations and entities are not required to have the same management measures as the United States, but to avoid identification must have adopted measures that are comparable in effectiveness to those of the United States. The Moratorium Protection Act and relevant regulations require that NMFS, in making this determination, also takes into account any different conditions that could bear on the feasibility and efficiency of such measures to end or reduce bycatch of the pertinent PLMRs, as well as all other relevant matters including but not limited to the history, nature, circumstances, extent, duration, and gravity of the bycatch activity in question.

1. Mexico

NMFS identified Mexico in the 2013 Report for lack of a regulatory program comparable in effectiveness to that of the United States to reduce or minimize bycatch of North Pacific loggerhead sea turtles, an endangered species under U.S. law and a PLMR shared with the United States, in the gillnet fishery in the Gulf of Ulloa. In 2015, NMFS negatively certified Mexico for not having adopted relevant regulatory measures. Subsequently, Mexico put in place regulations to reduce North Pacific loggerhead sea turtle bycatch in the fishery, including fishing gear restrictions, onboard video monitoring, a sea turtle mortality limit, and the establishment of a refuge area. Mexico reported that the measures would remain in place to ensure North Pacific loggerhead sea turtle conservation and long-term fishery sustainability and resiliency. In 2016, NMFS issued Mexico a positive certification based on the publication of the revised regulations and assurances from high-level government officials that the measures would be fully implemented and enforced. In 2018, Mexico extended the effective time period of the regulations.

NMFS requested information from Mexico regarding bycatch of PLMRs, including bycatch of North Pacific loggerhead sea turtles in its Gulf of Ulloa fisheries, due to the large number of strandings of this shared resource.

In spite of the measures Mexico has taken, Mexican Wildlife Law Enforcement has reported significant strandings of dead North Pacific loggerhead sea turtles on the shores of the Gulf of Ulloa in each of the past three years: 459 in 2018, 331 in 2019, and 351 from January to June 2020. NMFS is alarmed by the magnitude of these mortalities involving a shared stock of an endangered sea turtle. In communication with NMFS, Mexico noted that the Gulf of Ulloa measures are still in place, including the refuge area. NMFS, however, is concerned that the measures are not being fully or effectively implemented, based on the recent strandings data.

Based on the high numbers of strandings, coupled with concerns regarding the effectiveness and implementation of the current regulations, NMFS is re-identifying Mexico for not having management measures to end or reduce bycatch of North Pacific loggerhead sea turtles in Gulf of Ulloa fisheries that are comparable in effectiveness to U.S. regulations.

2. Other Nations and Entities Identified for Bycatch of PLMRs

Based on the analysis described above, for this report, NMFS prioritized the examination of bycatch of sea turtles in longline tuna and tuna-like fisheries managed by three RFMOs: ICCAT, IATTC, and WCPFC. Longline gear has relatively high bycatch rates for PLMRs. The International Seafood Sustainability Foundation reports that the average bycatch rate for these fisheries is more than 20 percent of their total catch.¹⁶ In examining NMFS' other international bycatch programs, such as those under the Marine Mammal Protection Act, NMFS determined that efforts to protect sea turtles from bycatch in international longline fisheries lagged behind those for other species. Finally, NMFS limited the scope to those tuna RFMOs to which the United States is a party, since NMFS has a direct management and conservation nexus to those fisheries.

Based on publicly available data, including annual reports and landing statistics provided to the three tuna RFMOs listed above, NMFS determined there are 56 other nations and entities that engaged in longline fishing in ICCAT, IATTC, or WCPFC Convention Areas in 2018, 2019, or 2020. In addition, another entity, the EU, was evaluated due to its capacity to regulate longline fishing by its member States and its competency to represent them at the tuna RFMOs.

All three of the prioritized RFMOs have adopted CMMs addressing sea turtle bycatch, although only the WCPFC and IATTC have direct bycatch mitigation measures in place.¹⁷ All three RFMOs require vessels to record bycatch of sea turtles, and require nations or entities to report their vessels' bycatch data to the relevant RFMO. All three also require vessels to utilize safe handling and release practices and tools. Only IATTC and WCPFC, however, require vessels to implement one of the following mitigation measures: use of circle hooks on pelagic longline gear, use of finfish bait, or another mitigation approach approved by the relevant RFMO. NMFS

¹⁶ <https://iss-foundation.org/about-tuna/fishing-methods/longline/> (downloaded May 18, 2021)

¹⁷ The relevant CMMs are ICCAT's Recommendation 10-09 (<https://www.bmisbycatch.org/regulations/recommendation-10-09>) and Recommendation 13-11 (<https://www.iccat.int/Documents/Recs/compendiopdf-e/2013-11-e.pdf>), IATTC's Resolution C-19-04 (<https://www.bmis-bycatch.org/regulations/resolution-c-19-04>), and WCPFC's CMM-2018-04 (<https://www.bmis-bycatch.org/regulations/cmm-2018-04>)

only considered those measures that address sea turtle bycatch in the comparability determination process, and did not include other CMMs, such as observer requirements or compliance mechanisms, in this analysis.

On this basis, NMFS determined that, for the purposes of this report, IATTC and WCPFC have adopted effective management measures to end or reduce the bycatch of sea turtles in longline fisheries. While IATTC's and WCPFC's measures could and need to be strengthened, they include the three pillars of an effective bycatch management measure: assessment, mitigation, and mortality minimization. Under the Moratorium Protection Act, a nation or entity that is a party or a cooperating non-party to an RFMO that has adopted effective management measures should not be identified under the Act's bycatch provisions. However, if a nation or entity is not implementing the relevant management measures in violation of that RFMO, these activities could be considered under the IUU fishing provisions of the Act.

NMFS notes that the most recent measures have been in place for less than a year (IATTC) or a year and a half (WCPFC), which limits NMFS' ability to determine their impact in reducing sea turtle bycatch. NMFS will continue to evaluate these fisheries for the 2023 Biennial Report to Congress, and will strongly consider identification if available information indicates that the measures are not resulting in a measurable reduction in sea turtle bycatch in longline fisheries.

Unlike IATTC and WCPFC, ICCAT has not adopted bycatch management measures that include all three pillars of an effective regulatory program. While ICCAT has adopted measures requiring nations and entities to report sea turtle bycatch, and requirements on safe handling and release of bycaught turtles, it has not yet adopted mitigation measures to reduce bycatch in longline fisheries. Therefore, longline vessels are operating in ICCAT waters with no restrictions to prevent or reduce bycatch of sea turtles, unless the nation or entity has adopted additional management measures. As such, NMFS assessed whether the individual ICCAT CPCs, or the relevant EU member States, had adopted a regulatory program governing such fishing practices designed to end or reduce such bycatch that is comparable in effectiveness to that of the United States, taking into account different conditions.

Following NMFS' determination that ICCAT had failed to implement effective measures to end or reduce sea turtle bycatch in longline fishing, NMFS assessed whether individual CPCs had adopted regulatory programs for their longline fisheries designed to end or reduce such bycatch that is comparable in effectiveness to that of the United States, taking into account different conditions. To be comparable in effectiveness to U.S. regulations, nations and entities would need to have adopted regulatory measures beyond what is required by ICCAT.

In conducting these assessments, NMFS used the sea turtle bycatch provisions from the U.S. Atlantic highly migratory species fisheries regulations (50 CFR Part 635) in evaluating comparability. These regulations implement the relevant ICCAT CMMs for U.S. longline vessels, and include recording and reporting of any sea turtle interactions as well as requiring tools and processes for safe handling and release of bycaught sea turtles. Further, pelagic longline vessels that are permitted to fish for tunas and swordfish are required to use only corrodible (i.e., non-stainless steel) 18/0 or larger circle hooks with an offset not to exceed 10

degrees, or 16/0 or larger non-offset circle hooks, as well as to use only whole finfish and/or squid bait. Bottom longline vessels are also required to use circle hooks.

All ICCAT CPCs with longlining activity in either 2018, 2019, or 2020 reported having some level of recording and reporting of bycatch incidents, as well as safe handling and release procedures, reflecting the current ICCAT management measures. Only six of these nations reported having additional measures in place to mitigate the bycatch of sea turtles. NMFS has determined that these nations have adopted management measures that are comparable in effectiveness to the United States, including requiring the use of circle hooks in longline fisheries. The following 28 nations and entities are being identified because they did not have management measures in place to reduce bycatch of sea turtles in their longline fisheries that were comparable in effectiveness to those of the United States, taking into account different conditions: Algeria, Barbados, China, Côte d'Ivoire, Croatia, Cyprus, Egypt, European Union, France, Greece, Grenada, Guyana, Italy, Japan, Korea, Malta, Mauritania, Morocco, Namibia, Portugal, Saint Vincent and the Grenadines, Senegal, South Africa, Spain, Taiwan, Trinidad and Tobago, Tunisia, and Turkey.

None of the eight EU member States longlining in the ICCAT Convention Area has adopted binding management measures to mitigate bycatch of sea turtles under their domestic regulations, nor has the EU adopted a regulatory requirement under its Common Fisheries Policy. Therefore NMFS is identifying the EU as well as the individual member States that had active longline fishing in the ICCAT Convention Area for failure to adopt regulations to end or reduce sea turtle bycatch.

3. Next Steps

NMFS will work with identified nations and entities over the next two years as part of the Moratorium Protection Act's consultation process. Following identification in this report, a future positive certification will be contingent upon adoption of regulations or measures, comparable in effectiveness to those of the United States, to end or reduce bycatch of sea turtles in longline fisheries. NMFS will explore cooperation with and assistance to identified nations and entities, including potential technical assistance or cooperative research, to the greatest extent possible consistent with existing authority and the availability of funds.

In addition, NMFS will intensify efforts at ICCAT, IATTC, and WCPFC to promote the adoption of strengthened sea turtle bycatch management measures. NMFS firmly believes that the underlying goal of the statutory process is to protect PLMRs by strengthening international bycatch governance, including at RFMOs. NMFS will collaborate with identified nations and entities not only to support their domestic efforts but also to improve sea turtle bycatch measures in these RFMOs. As noted above, while all three RFMOs have some measures in place, more needs to be done in each. In the 2023 Biennial Report to Congress, NMFS will re-examine the effectiveness of the bycatch measures in these RFMOs.

C. Shark Catch on the High Seas

Criteria for identification. The statutory and regulatory requirements for identifying a nation or entity for shark-related activities are described in Chapter III.C. In making an identification, NMFS takes into account whether the nation or entity has adopted a regulatory program for the conservation and management of sharks in its domestic waters that could have bearing on shark conservation on the high seas. NMFS considers other relevant matters, including but not limited to the history, nature, circumstances, and gravity of the fishing activities that targeted or incidentally caught sharks in areas beyond any national jurisdiction. In addition, NMFS takes into account any actions taken by the nation or entity that are relevant to the conservation and sustainable management of sharks in areas beyond any national jurisdiction, including:

- Whether the nation or entity has adopted a regulatory program for the conservation of sharks.
- Whether the nation or entity has adopted a law, regulation, decree, or other legal mechanism implementing the nation's or entity's obligation to comply with an RFMO's measures.
- Participation in cooperative research activities designed to mitigate the impacts of fishing activities that result in the incidental catch of sharks.
- Programs for data collection and sharing, including programs to assess the abundance and status of sharks and the effectiveness of observer programs.
- If vessels of the nation or entity have shark bycatch, the adoption and use of strategies, techniques, and equipment for the reduction and mitigation of such bycatch.

If any relevant international organization or RFMO has adopted measures for the conservation and management of sharks, NMFS will consider whether the nation or entity is a party or cooperating non-party to the organization and, if so, whether the nation has implemented such measures.

Data collection. When determining whether a nation or entity could potentially be identified for these activities, NMFS will review, evaluate, and verify relevant information obtained from credible sources demonstrating that foreign-flagged vessels engaged in fishing activities or practices that targeted or incidentally caught sharks in areas beyond any national jurisdiction during the relevant timeframe. This information could include data gathered by the U.S. Government as well as obtained from other nations, international organizations (such as RFMOs), institutions, bilateral or other arrangements, or NGOs. Corroboration of information may be addressed through cooperation with governments, international organizations, NGOs, and through use of other credible information as appropriate.

For this report, NMFS considered 2018 and 2019 shark catch data from the following seven RFMOs: CCAMLR, IATTC, ICCAT, the Northwest Atlantic Fisheries Organization (NAFO), NPFC, the South Pacific Regional Fisheries Management Organisation (SPRFMO), and WCPFC. Although the Moratorium Protection Act allows an identification based on the three preceding years (2018–2020), catch data reported to an RFMO lags by one year (i.e., catch data reported in 2018 are actually 2017 catch data). Thus, for the purposes of this report, actionable

data were only available for 2018 (reported in 2019) and 2019 (reported in 2020). The 2023 report will include catch data for 2020, reported in 2021, and for 2021, reported in 2022.

NMFS implements RFMO CMMs for sharks under the statutes for each RFMO treaty to which the United States is a party as well as under the MSA. For the purpose of identifying nations or entities for shark catch on the high seas, NMFS limited its review to catch data from those RFMOs to which the United States is a party so that a comparability analysis of the regulatory programs of a nation or entity could be conducted, as described below.

In response to the June 30, 2020, NMFS solicitation for information on shark catch on the high seas, NMFS received one comment from the public relevant to the high seas shark provision. The commenter stated NMFS should identify several ICCAT parties that reported shark catch on the high seas during the relevant timeframe. The commenter also listed three criteria¹⁸ it believes a nation or entity must meet for its regulatory program to be determined comparable to that of the United States. NMFS completed an evaluation of each of the ICCAT parties the commenter raised by analyzing their laws and regulations; based on that analysis, NMFS does not agree with the commenter's conclusion that they should be identified. Furthermore, NMFS does not agree that a nation or entity must meet all three of the stated criteria for a nation's regulatory program to be deemed comparable.

Forty-five nations and entities had reported shark catches to the seven RFMOs within the applicable timeframe of the previous report (2016 and 2017). NMFS sent letters to these nations and entities requesting information on their shark catch on the high seas and their domestic regulatory information relevant to shark conservation and management. See the 2019 Biennial Report to Congress for more detail.

Fifty nations and entities reported shark catches to the seven RFMOs for 2018 and 2019.¹⁹ Following analysis of available information, either received from a nation or entity via responsive letters to NMFS in 2019 and/or 2021 or through a proactive search of publicly available laws and regulations, NMFS determined that 41 of those nations or entities had submitted adequate information to avoid identification, but that additional information was needed from nine others.

NMFS sent letters to the nine nations or entities determined to have reported inadequate information, requesting the following:

- Verification of the shark catch data compiled by the United States;
- Any additional data for catch of sharks in waters beyond any national jurisdiction;
- The shark fishing laws, regulations, and/or management plans implemented and enforced for targeted shark fisheries or those that incidentally land sharks within the EEZ or

¹⁸ A fins-naturally-attached rule, sufficient observer coverage on high seas longline vessels targeting pelagic fish species, and reliable enforcement of violations.

¹⁹ It should be noted that 2020 RFMO meetings, including some data reporting, were heavily affected by the COVID-19 pandemic; this might have resulted in an undercount for 2019 catches.

implemented in waters beyond any national jurisdiction by vessels flagged by that nation or entity;

- Catch-limits, quotas, seasonal/area closures, or retention bans on certain species, if applicable, the specifics of any such requirements and the species to which they apply;
- How the nation regulates shark finning, i.e., the removal of shark fins and discard of the carcass at sea;
- How shark catches are monitored in waters beyond any national jurisdiction by vessels flagged by the nation or entity;
- Requirements for recording and reporting catch, both on the high seas as well as in the EEZ of the nation or entity;
- The law, regulation, decree or other legal mechanism by which an obligation to comply with an RFMO's conservation and management measures is implemented;
- The requirement for flagged fishing vessels to minimize incidental catches of sharks, provide for live release, and promote post-release survival; and,
- Research conducted on shark species in the EEZ of the nation or entity or on the high seas.

Comparability analysis. Of the 50 nations and entities, nine nations' or entities' fishing efforts were restricted to their EEZs, so those nations' or entities' shark fishing activities fell outside the mandate of Section 1826k(a)(2) for NMFS to address the catch of sharks in an area beyond any national jurisdiction.

For the remaining 41 nations and entities, NMFS reviewed, evaluated, and verified relevant information obtained from credible sources, including a nation's or entity's reported shark catch to the relevant RFMO, that demonstrated a nation's or entity's foreign-flagged vessels engaged in fishing activities or practices in areas beyond any national jurisdiction that targeted or incidentally caught sharks during the relevant timeframe.

NMFS took into account all relevant matters including, but not limited to the history, nature, circumstances, duration, and gravity of the fishing activity of concern when making a determination whether a nation or entity has adopted a regulatory program comparable to that of the United States. In particular, NMFS considered whether the nation or entity is a party or cooperating non-party to the relevant RFMO where the catch occurred and, if so, whether the nation or entity has implemented the shark conservation and management measures for the respective RFMO.

NMFS analyzed each nation's or entity's laws, regulations, decrees, or other legal mechanism by which an obligation to comply with an RFMO's conservation and management measures is implemented, to determine how that nation or entity requires its vessels fishing on the high seas to comply with an RFMO's management measures.

NMFS' analysis of the remaining 41 nations and entities resulted in the determination that each has a regulatory program comparable to that of the United States. Therefore NMFS is not identifying any nation or entity under Section 1826k(a)(2).

VI. NOAA's International Activities

A. Overview of Multilateral and Bilateral Engagement

Numerous global and regional policy instruments facilitate international fisheries management. This chapter focuses on international efforts to address IUU fishing, reduce the impacts of fishing on PLMRs, and improve shark conservation. In pursuit of these goals, the United States promotes sound management measures globally, engages in regional and bilateral cooperation and capacity building, and demonstrates leadership in enhancing fisheries monitoring and enforcement. Background information about relevant international treaties and organizations can be found in Appendix I and on the NOAA website.²⁰ Decisions on management measures in these fora are most frequently made by consensus; this reality highlights the critical importance of diplomacy and cooperation.

For each of the three focal areas of this report—IUU fishing, bycatch of PLMRs, and shark conservation—multilateral action is the most powerful approach to improving international management. The United States engages globally through bodies such as the United Nations General Assembly (UNGA) and FAO, regionally through RFMOs and other fora, and bilaterally through direct engagement with numerous nations and entities. In recent years, the international community has increasingly recognized that successful action against IUU fishing activities and related problems requires strengthening existing institutions and improving governance systems within the organizations themselves. The United States works within these organizations to seek to develop and adopt CMMs that are comparable with those in place domestically. The aim is to extend good governance practices globally so that vessels around the world operate under similar frameworks for the protection of living marine resources.

The United States and the broader international community recognize the importance of building the capacity of developing coastal, fishing, and port States to manage and monitor their fisheries, fishing vessels, and ports. More fundamentally, the growing demands of American consumers for sustainably sourced products require the United States to address the lack of fisheries management and enforcement capacity in many developing nations. The need for such cooperation and assistance is recognized in global and regional fisheries instruments. Through the MSA and other authorities, NOAA engages in international cooperation and capacity building. Capacity-building efforts strengthen international fishery management organizations; enable other nations to become better stewards of their fisheries resources; and enhance strategic partnerships with other agencies, nations, and non-governmental and other private sector organizations.

The United States shares a range of stocks of living marine resources, including protected resources, with other nations and entities. Many of these resources cross national maritime boundaries and some venture into the high seas as part of their natural life cycles. This is why

²⁰ Office of International Affairs and Seafood Inspection, NMFS, NOAA (2020) International Agreements concerning living marine resources of interest to NMFS. 252 pages. Accessed at <https://www.fisheries.noaa.gov/resource/document/2020-international-fisheries-agreement-book>

conservation activities, or the lack thereof, in jurisdictions other than the United States can enhance or undermine U.S. conservation efforts. Management measures in other nations and entities can also directly affect the status of fish stocks caught by U.S. vessels. Insufficient conservation efforts can interfere with the recovery of endangered or threatened species wherever they occur. Based on these and other considerations, the United States maintains both formal and informal bilateral fisheries relationships with many other nations and entities. More formal relationships involve annual consultations covering a broad range of topics of mutual interest, including domestic developments such as new legislation, management of shared and transboundary species when relevant, key issues in individual RFMOs and global organizations, and other cross-cutting issues.

Less formal bilateral interactions may also occur on an *ad hoc* basis. For example, the United States continues to participate in bilateral discussions with a number of nations and entities to address issues relating to international shark conservation and management. Emphasis in these bilateral consultations has been on the collection and exchange of information, including requests for data on shark fin landings, transshipping activities, catch and trade activities, stock assessments, and life history. These engagements are valuable because they increase coordination in transboundary management situations, allow for focused problem solving in the case of management or policy conflicts, and offer strategic benefits in negotiations with a wider group of nations and entities.

This chapter outlines key achievements during the last two years related to the three main issues in this report—IUU fishing, bycatch of PLMRs, and shark conservation—in global and regional organizations (Section B) and RFMOs (Section C).

B. Accomplishments and Efforts of Global and Regional Organizations

This section focuses on actions taken by global and regional organizations and parties to international conventions to address IUU fishing, bycatch of PLMRs, and shark conservation. These actions addressed, among other issues, the way transshipments may affect IUU fishing, the threat posed by unregulated trade in sharks and other marine species, and mitigation of marine mammal bycatch.

Food and Agriculture Organization. FAO's Committee on Fisheries (COFI), established in 1965, constitutes the only global intergovernmental forum other than UNGA where major international fisheries and aquaculture problems and issues are examined and recommendations are addressed to governments, regional fisheries bodies, NGOs, fish workers, and the international community on a worldwide basis. COFI is also used as a forum to negotiate binding global agreements, such as the PSMA, and non-binding instruments related to fisheries and aquaculture, such as the Code of Conduct for Responsible Fisheries. COFI meets biennially and the 34th session of COFI was held virtually in February 2021 due to the COVID-19 pandemic.

COFI Members congratulated FAO for the publication of Guidelines to Prevent and Reduce Bycatch of Marine Mammals in Capture Fisheries.²¹ NMFS provided significant support and contributions to the development and finalization of that publication. This effort joins other FAO plans of action and guidance for other taxa impacted by bycatch (seabirds, sharks, and turtles) already in place, and compiles updated, science-based solutions and opportunities to prevent and reduce marine mammal bycatch at local or regional levels.

COFI Members also welcomed FAO's in-depth study in support of the development of international guidelines for transshipment²² and agreed to proceed to the development of draft voluntary guidelines for the regulation, monitoring, and control of transshipment for consideration at the next session of COFI in 2022. More information on this issue is in Chapter VII.F.

COFI Members also supported FAO's continued work to develop technical guidelines for estimating the magnitude and impact of IUU fishing. FAO will produce a series of volumes to cover this issue. The first two volumes—comprising of a review of past estimation studies and a reference guide on principles and approaches for IUU fishing estimation—have been completed. A third volume containing practical guidance for practitioners to undertake an estimation of IUU fishing under different scenarios and data availability is being produced.

COFI Members also endorsed the 2021 COFI Declaration for Sustainable Fisheries and Aquaculture²³ in celebration of the 25th anniversary of the Code of Conduct for Responsible Fisheries. The Declaration marks the achievements of the fisheries and aquaculture sectors during the past 25 years and identifies remaining challenges to securing the long-term sustainability of those sectors.

The FAO initiative to compile a Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels continues in its effort to provide a single access point for information on vessels used for fishing and fishing-related activities. The primary objective of this initiative is to combat IUU fishing by enhancing transparency and traceability. As of March 2021, the database contained information on a total of 11,772 vessels from 63 flag States.²⁴

The United States continues to encourage other nations and entities to implement the FAO's International Plan of Action for the Conservation and Management of Sharks by finalizing, implementing, and periodically updating their own National Plans of Action and to adopt policies that require all sharks to be landed with their fins naturally attached.

²¹ <http://www.fao.org/responsible-fishing/resources/detail/en/c/1370993/>

²² <http://www.fao.org/documents/card/en/c/cb2339en>

²³ <http://www.fao.org/3/ne472en/ne472en.pdf>

²⁴ The database and additional details on this initiative can be found at this link: <http://www.fao.org/global-record/en/>.

United Nations General Assembly. UNGA Members, through the 2019 Sustainable Fisheries Resolution, continue to express serious concern about IUU fishing. States and RFMOs are urged to take effective measures, or to strengthen existing measures, addressing IUU fishing. States, RFMOs, and relevant international organizations are also urged to implement appropriate measures to minimize bycatch, recognize the economic and cultural importance of sharks, and consider the science-based measures taken by States to conserve and sustainably manage sharks. The UNGA 2020 Sustainable Fisheries Resolution reaffirmed the 2019 resolution and included only factual updates, since Members were unable to meet in person due to the COVID-19 pandemic.²⁵

Convention on International Trade in Endangered Species. During the 18th meeting of the CITES Conference of the Parties (CoP18) in 2019, the parties adopted four proposals to include marine species in CITES Appendix II (for species that may become threatened with extinction unless trade is strictly regulated). These species include shortfin and longfin mako sharks, giant guitarfish, wedgefishes, and teatfish (a species of sea cucumbers found in the Indo-Pacific region). The United States led efforts at CoP18 to strengthen several decisions to combat the illegal catch and trade of totoaba fish, which are putting the critically endangered vaquita porpoise at risk of extinction (vaquita become entangled and drown in the illegal gillnets used to catch totoaba in the Upper Gulf of California). One of the totoaba decisions adopted by the CoP calls specifically on Mexico to take a number of urgent actions to address the threats to these species. These include deploying enforcement personnel to effectively prevent fishermen and vessels from entering the Vaquita Refuge area and establishing a trilateral enforcement group (China, Mexico, and the United States) to tackle illegal trade in totoaba. The decisions also urge Mexico to expand its current efforts to remove and destroy confiscated gillnets.

CoP18 adopted several decisions that will provide valuable information and assistance to support CITES parties in combating the illegal international trade in seahorses. They call on the CITES Secretariat to share available materials on the CITES website, seek and disseminate information on national trade quotas and suspensions, and facilitate the organization of an expert workshop to identify practical steps for implementation and enforcement of the CITES Appendix II listing of seahorses.

As one of the primary importers of marine ornamental fish, the United States believes there is a need to help ensure that international trade in these species is done sustainably. Decisions adopted at CoP18 require, subject to the availability of external funding, the CITES Secretariat to convene a technical workshop to consider conservation priorities and management needs related to trade in non-CITES-listed marine ornamental fish worldwide, with a focus on data from importing and exporting nations and entities.

CoP18 adopted several decisions related to the conservation and management of sharks and rays to address challenges with CITES implementation and knowledge gaps. To help fill some of these gaps, the Secretariat is to collaborate with FAO on an analysis of the trade in non-fin shark products of CITES-listed species, and conduct a study in collaboration with relevant experts to

²⁵ The two resolutions can be found at <https://undocs.org/en/A/RES/74/18> and <https://undocs.org/en/A/RES/75/89>.

investigate the lower-than-expected levels of trade in CITES-listed sharks and rays in the CITES Trade Database since 2000.

The parties updated several decisions aimed at ensuring sustainable harvest and legal trade in queen conch. They encourage range States to collaborate in priority activities such as implementation of the Regional Queen Conch Fisheries Management and Conservation Plan, data collection to improve regional conversion factors or develop national conversion factors, joint research programs to support making non-detriment findings, and development of public education and awareness programs regarding the conservation and sustainable use of queen conch.

The United States led successful efforts to strengthen draft decisions on the conservation and management of marine turtles. The adopted decisions urge parties to develop or update management and action plans; improve monitoring, detection, and law enforcement activities; collect DNA samples of marine turtle specimens, including from seized specimens, to determine species involved and populations of origin in support of research, investigations, and prosecutions; improve cooperation, collaboration, and exchange of actionable intelligence regarding illegal take of and trade in marine turtles; and ascertain key trade routes, methods, volumes, and “hot spots.”

CoP18 supported renewal of decisions requesting that the Animals Committee analyze the outcomes of a study prepared by FAO on the biology, population status, use, and trade of precious corals, and on relevant management schemes. The United States has long advocated for the sustainable harvest and legal trade in precious corals, which includes black corals (currently listed in CITES Appendix II) and pink and red corals (which are not currently listed in the CITES Appendices). Although a U.S. proposal to include pink and red corals in CITES Appendix II was defeated twice at earlier CoPs, the United States continues to seek ways to ensure that international trade does not threaten the survival of these species in the wild.

CoP18 adopted decisions that encourage Indonesia to continue CMMs to ensure the sustainability of international trade in Banggai cardinalfish (a small tropical fish that is popular in the aquarium trade and only found in Indonesia) and to report its progress on these measures and implementation of recommendations made by the Animals Committee. The United States is concerned about the impacts of international trade on the Banggai cardinalfish. In 2016, NMFS listed the Banggai cardinalfish as threatened under the Endangered Species Act. Subsequently, NMFS co-financed a study to assess the impact of international trade on the conservation status of this species and to advise on suitable CMMs. This study formed the basis of the Animals Committee’s recommendations.

International Whaling Commission. The IWC’s Bycatch Mitigation Initiative (BMI) aims to develop, assess, and promote effective bycatch prevention and mitigation measures worldwide. Work under the BMI is done in collaboration with other organizations, national governments, and fishing communities. In the years 2019 and 2020, the primary work under the BMI focused on designing and identifying priority regions for a series of pilot projects to apply multi-disciplinary, experimental approaches to marine mammal bycatch mitigation, monitoring, and management. Over the past two years, the BMI has also continued to work in collaboration with

the IWC's Scientific Committee, as well as to pursue partnerships and outreach beyond the IWC with the FAO and RFMOs. In particular, the IWC and the BMI actively contributed to the development of the FAO Technical Guidelines to Prevent and Reduce Bycatch of Marine Mammals in Capture Fisheries. Over the 2019–2020 period, NOAA provided funds to the IWC to support the staff time and ongoing work plans of the BMI, as well as the whale watching working group and other conservation initiatives.

A virtual meeting of the Conservation Committee endorsed the BMI's most recent work plan. The work plan focuses on securing funding for pilot projects, evaluating results from pilot project trials, driving innovation of mitigation measures, promoting BMI technical advice and capacity-building opportunities, promoting best practice, and improving and streamlining bycatch reporting to the IWC.

Convention on the Conservation of Migratory Species of Wild Animals. Parties to the CMS, meeting in India in 2020, listed the oceanic whitetip shark under Appendix I, which provides for the strictest protection. The smooth hammerhead shark and the tope shark were listed under Appendix II, which covers migratory species that would benefit from enhanced international cooperation and conservation actions. Parties adopted targeted conservation plans for a number of marine species that are listed in Appendix I or Appendix II.

Specially Protected Areas and Wildlife Protocol. The parties to the SPAW Protocol, which covers the Wider Caribbean Region, added the largetooth sawfish to Annex II and the silky shark to Annex III at its conference in 2019. For species listed in Annex II, parties are to ensure their total protection and recovery, including by prohibiting taking, possessing, or killing, or commercial trade in such species, or their eggs, parts, or products. Parties must also prevent, to the extent possible, disturbing species, particularly during periods of breeding, incubation, estivation, or migration, as well as other periods of biological stress. For Annex III species, parties must adopt appropriate measures to ensure their protection and recovery, and may regulate the use of such species to ensure their populations are maintained at the highest possible levels.

Asia-Pacific Economic Cooperation. In 2019, APEC Ministers adopted the APEC Roadmap on Combatting IUU Fishing. The Roadmap seeks to enhance cooperation among APEC members to reduce IUU fishing in the Asia Pacific region. More specifically, it calls on members to work to build and strengthen technical and institutional capacities relative to IUU fishing, and to improve compliance with domestic and international conservation and management measures that address IUU fishing in the region. Ministers tasked the APEC Ocean and Fisheries Working Group (OFWG) with implementation of this vision, and in 2020 the OFWG adopted an Implementation Plan relative to the Roadmap that provides additional detail on work to be undertaken in the next five years on this topic. The Implementation Plan is a “living document,” designed to be updated as tasks are addressed and new approaches are identified. In 2021, the first OFWG capacity-building project under the Plan will focus on enhancing implementation of port State measures in the region. A range of other projects are currently under development. The United States took a leadership role in the development of both the Roadmap and the OFWG Implementation Plan, and we are a co-sponsor with New Zealand and others in the current capacity-building project.

Western Central Atlantic Fishery Commission. The United States successfully hosted the biennial meeting of Western Central Atlantic Fishery Commission (WECAFC) in July 2019, in Miami. Among the meeting outcomes, a draft Regional Plan of Action to Prevent, Deter and Eliminate IUU Fishing was endorsed. This document was prepared by the Regional Working Group on IUU Fishing, a joint group of WECAFC, the Caribbean Regional Fisheries Mechanism, and the Organization for Fisheries and Aquaculture of Central America. WECAFC adopted several non-binding recommendations developed by the joint working group related to the application of technical guidelines on methodologies and indicators for the estimation of the magnitude and impact of IUU fishing, the marking of fishing gear, and the monitoring and control of transshipment at sea.

WECAFC also adopted a non-binding recommendation aimed at promoting the conservation and management of sharks and rays. It recommended that WECAFC members develop National Plans of Action for the Conservation and Management of Sharks (consistent with the International Plan of Action for the Conservation and Management of Sharks); prohibit retention, transshipment, landing, and trading of certain shark and ray species consistent with measures adopted by ICCAT and other relevant international instruments, as appropriate; and ensure that all sharks landed have their fins naturally attached through the point of first landing. This measure also strongly encourages WECAFC members to provide their estimates of landings and discards of sharks and other data to WECAFC and ICCAT to support future stock assessments.

In 2020, WECAFC's Regional Working Group on IUU Fishing held its 4th meeting virtually. Members of the working group provided updates on counter-IUU fishing efforts and reviewed progress on the status of implementation of the Regional Plan of Action on IUU Fishing that was adopted at the 2019 Commission meeting. The working group also agreed upon recommendations in support of the development and implementation of international guidelines for transshipment and to enhance regional information sharing and cooperation toward combatting IUU fishing.

C. Accomplishments and Efforts of RFMOs

All RFMO annual sessions, subsidiary body meetings, and intersessional working groups have been held virtually, or via written submissions, since April 2020 and will likely continue in virtual formats through at least the end of 2021. Despite these challenging formats, RFMOs continued to make progress during the past two years on important issues of relevance to this report. The United States has led initiatives in these fora to pass or strengthen conservation and management measures. U.S. delegations, working with other members in bilateral virtual meetings, have succeeded in leading efforts to make substantive improvements on measures to curtail trade in products of IUU fishing, such as: strengthening measures related to transshipment, which can serve as a mechanism for moving IUU fish and fish products; developing or enhancing catch documentation schemes; and adjustments to port State measures to more fully align with international standards. The goal of all of these tools is to increase our capacity to ensure that only lawfully caught products of authorized fisheries are admitted into the markets of member States and cooperating non-members.

Other efforts the United States led or supported have succeeded in taking steps to combat destructive fishing practices that affect the health of vulnerable marine ecosystems (VMEs), and have adopted additional bycatch mitigation measures. To improve management of shark fisheries, RFMOs have set catch limits and dealt with obstacles to accurate reporting of shark catches. Accomplishments of RFMOs of which the United States is a member are set out in more detail below in this section. The United States either initiated or supported the adoption of these strengthened measures. Also noted below are some important U.S. proposals designed to continue to address the issues of IUU fishing, bycatch, and shark conservation that have not yet been adopted, but have garnered increasing support over the past two years. The United States continues to build international support for these measures and will promote their adoption at future RFMO meetings.

Commission for the Conservation of Antarctic Marine Living Resources. CCAMLR has continued to enhance and promote participation in its toothfish catch documentation scheme. In 2019, CCAMLR approved funds to solicit a proof of concept for developing an online, interactive electronic catch documentation scheme training package. Making an online training package available would improve efficiency in the training of staff of parties and cooperating non-contracting parties on the use of the catch documentation scheme. The Commission also approved funds for workshops and training to engage non-contracting parties in 2020-2022, including in-country engagement with Colombia, Vietnam, and Thailand as States that have indicated an interest in cooperating with the scheme. Much of this work is on hold due to pandemic-related restrictions.

Also in 2019, the United States supported a European Union (EU) proposal to expand an existing CMM on environmental protection to ban the discharge of plastics in the Convention Area. The proposal was adopted, and it extends the area of application of the existing ban on the dumping or discharging of oil or fuel into the sea, from the area south of 60°S to the entire Convention Area.

For the seventh time the United States led an effort to require that any sharks incidentally caught in the Convention Area be kept with all fins naturally attached to the point of first landing. Rather than pursue the same proposal as in previous years, the United States presented a streamlined proposal focusing on that core requirement. As in past years, it was well received by many members, but was not adopted due to strong objections from a few members.

CCAMLR prohibits krill trawl vessels from using net monitoring cables. This prohibition protects seabirds, which are known to strike such cables and, in some cases, die from the strikes. During the 2019 meeting the Commission learned that vessels using the continuous trawling method have been using net monitoring cables to receive real-time data on the capacity and operation of the trawls. The Commission allowed a one-year exemption for these vessels to continue using the net monitoring cables on the condition that the vessels monitor seabird interactions and undertake trials of measures to mitigate seabird strikes. In 2020, the Commission agreed to a one-year extension of the exemption to allow further testing of measures and gathering of additional data to identify practical and effective devices for mitigating seabird strikes from fishing-related cables.

CCAMLR had been, over time, increasing its authorizations of fishing for research purposes in areas where fishing is prohibited. Such research fishing was exempt from environmental protection requirements. Information on this research fishing—such as catch amounts, vessels participating, and areas—was only specified in meeting documents or reports, making the details difficult to find. In 2017, CCAMLR adopted a U.S. proposal for documenting the details of Commission-approved research fishing plans in the schedule of conservation measures and applying the requirements of other conservation measures to the research fishing activities unless specified otherwise. This measure has raised awareness and increased transparency of the fishing vessels authorized to operate in closed areas and increased protections for marine life, particularly for Antarctic marine living resources taken as bycatch.

At its 2019 meeting, the Commission agreed to a proposal to strengthen its transshipment measure by requiring that additional information be provided as part of the advance notification of transshipments and requiring contracting parties to confirm or amend the notified information after transshipments take place. Contracting party flag States are now required to confirm or amend the transshipment information to the Secretariat within three days following transshipments in the Convention Area; this will provide better information for port and at-sea inspections.

In 2019, CCAMLR encouraged cooperation with INTERPOL on its investigations of the IUU listed F/V *STS-50* (ex *Andrey Dolgov*, IMO: 7379565) that was apprehended by Indonesian authorities in 2018, and the Panamanian-flagged F/V *Nika* (IMO: 8808654). On March 31, 2020, Panama proposed that the F/V *Nika* be listed as an IUU fishing vessel. According to Panama, the F/V *Nika* is under an administrative sanction for possible IUU fishing in the surroundings of the fishing sub-area 48.3 B. Panama indicated that the Aquatic Resources Authority of Panama has requested that the Maritime Authority deregister the vessel. In October 2020, the Commission agreed to include the F/V *Nika* on the contracting party IUU vessel list.

Inter-American Tropical Tuna Commission. At its 2019 meeting, IATTC adopted three important proposals related to IUU fishing and bycatch issues. The first measure established procedures to consider vessels listed on IUU vessel lists in other RFMOs for inclusion on the IATTC's IUU vessel list. The second measure, proposed by the United States, combined and revised two existing resolutions with sea turtle bycatch mitigation provisions and added new measures to strengthen requirements to mitigate fishing interactions with sea turtles. In the third measure, IATTC extended, for an additional two years, the silky shark bycatch mitigation measures that were set to expire. Amendments to the measures increase flexibility by allowing exceptions for silky sharks accidentally caught and frozen by purse seine vessels. In those instances, the amendments require reporting rather than mitigation measures. In addition, there are now inspection requirements for longline vessels that retain silky sharks, with exceptions for members and cooperating non-members that prohibit retention on longline vessels.

IATTC held two virtual meetings in late 2020. The meetings included shortened agendas to focus narrowly on adopting Pacific bluefin tuna and tropical tuna measures, as applicable existing resolutions were set to expire at the end of the 2020 calendar year. Each resolution applies to 2021 only.

International Commission for the Conservation of Atlantic Tunas. As part of a 10-year effort to strengthen ICCAT, in 2019 the Commission adopted comprehensive amendments to its 1966 Convention. Among other things, the Protocol to the Convention clarifies ICCAT's mandate to manage certain shark and ray species and address the conservation of associated and dependent species; ensures that all key fleets targeting ICCAT species are bound by its rules and can appropriately participate in decision-making, in particular through the full participation of Taiwan; and expressly incorporates modern fisheries management concepts, namely the precautionary and ecosystem approaches to fisheries management.

Also in 2019, ICCAT set a science-based annual total allowable catch for North Atlantic and South Atlantic blue shark. This was significant as it was the first time ICCAT has adopted a catch limit for any shark species. For North Atlantic shortfin mako, a new measure requires release in a manner that causes the least harm; allows retention of dead shortfin mako if there is an observer or electronic monitoring system on board, if the shark is over a certain size, or in some other limited cases; and establishes reporting and biological sampling requirements to improve available scientific information. This measure was designed to address overfishing and begin rebuilding the North Atlantic shortfin mako stock; additional conservation action is likely needed in the light of the most recent scientific advice.

As part of efforts in 2019 to combat IUU fishing, ICCAT amended an existing resolution on the voluntary exchange of at-sea inspection personnel to expand the scope of the program to include bluefin tuna farms and traps. ICCAT also adopted a U.S. proposal that encourages CPCs to board and inspect vessels without nationality operating in the Convention Area, as well as non-CPC vessels operating in contravention of ICCAT conservation measures. Taken together, adoption of these two proposals represents incremental progress toward the establishment of a high seas boarding and inspection scheme for ICCAT fisheries beyond those applicable to the Eastern Atlantic and Mediterranean bluefin tuna and Mediterranean swordfish fisheries.

ICCAT also established a new working group on bluefin tuna control and traceability measures, to examine ways to strengthen relevant measures aimed at preventing IUU fishing activities, including trade in illegally harvested bluefin tuna. At its March 2020 meeting, this group identified potential loopholes and other weaknesses in the current management measure for eastern Atlantic and Mediterranean bluefin tuna that may reduce the effectiveness of the ICCAT control and traceability measures, with a focus on live catch, farming, and post-harvest trade activities in the eastern Atlantic and the Mediterranean.

At the intersessional meeting of Panel 2 in March 2021, the Chair of the Working Group on Bluefin Tuna Control and Traceability Measures presented a draft recommendation on eastern Atlantic and Mediterranean bluefin tuna that aims to clarify provisions related to transfer, caging, and farming of live bluefin tuna, the role of national and regional observers, and the responsibilities of farm operators and CPCs. Intersessional work on this proposal is ongoing through correspondence, with an additional Panel 2 meeting planned for September 2021.

In its continuing efforts to adopt strong bycatch mitigation measures at the RFMOs, in 2019 the United States proposed a new measure to reduce fishing interactions with sea turtles and increase

post-release survival of sea turtles. Unfortunately, it was not adopted. As a result, ICCAT does not have any mandatory mitigation measures in place to reduce the bycatch and bycatch mortality of sea turtles. Current ICCAT measures include only data collection and reporting requirements and the mandatory use of safe handling and release procedures for sea turtle bycatch.

North Pacific Anadromous Fish Commission. Through NPAFC, NOAA and the USCG work closely with enforcement agencies of other member States to enforce the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, which prohibits directed fishing for anadromous stocks in the high seas areas of the North Pacific Ocean. The United States and the other NPAFC member States achieved a high level of enforcement cooperation again during Operation North Pacific Guard over the past two years. In 2019, NPAFC member States conducted more than 430 hours of aircraft patrols and more than 260 ship-days, during which they identified multiple fishing violations that were reported to the relevant RFMO, although none involved high-seas driftnet activity or illegal retention of salmon. As part of Operation North Pacific Guard 2020, the USCG cutter *Douglas Munro* patrolled over 11,000 miles on the high seas of the North Pacific Ocean, spanning 59 days. During this patrol, the USCG conducted at-sea inspections aboard 11 fishing vessels operating under several other RFMOs; however, again, no high-seas driftnet activity or targeted salmon fishing was observed.

North Pacific Fisheries Commission. At its meeting in 2019, NPFC adopted a three-year compliance monitoring scheme, with limited application focused on only three CMMs to be assessed. However, at the 2020 meeting, which was postponed until early 2021, led by a U.S. initiative, the Commission expanded the number of obligations assessed under the Compliance Monitoring Scheme to include all CMMs that include “shall,” and for which the Secretariat has adequate data to review for compliance.

At the 2019 meeting, the Commission also adopted a regional vessel monitoring scheme, but left a number of outstanding issues to be addressed before the 2020 meeting, including manual reporting and the development of more concrete operating procedures.

The Commission adopted data sharing and data security protocols for VMS in February 2021. The system is near completion; the contracted VMS vendor is testing the transmission of data among members. The regional VMS is expected to be fully implemented in the fall of 2021.

Members expressed a great deal of concern over a recent increase in transshipment activity in the Convention Area, especially given the current low level of monitoring and required reporting. According to Japan’s records and calculations, nearly 85 percent of catch taken in that area is transshipped, with the number of transshipments nearly doubling in the past three years. Several members, including the United States, are pressing to begin work to develop a more comprehensive and robust transshipment measure in 2021 for approval in 2022.

Demonstrating U.S. leadership in enforcement activities, USCG cutter *Mellon* conducted 35 NPFC boardings, resulting in 32 potential CMM violations during Operation North Pacific Guard 2019. During the same operation in 2020, USCG cutter *Douglas Munro* conducted three NPFC boardings resulting in nine potential CMM violations.

Northwest Atlantic Fisheries Organization. At its 2019 annual meeting, NAFO developed a response to the FAO request for information on NAFO implementation of its port State control measures; this response (submitted early in 2021) detailed actions taken by NAFO to implement the PSMA within the NAFO Conservation and Enforcement Measures, and also a brief summary of the implementation challenges faced by NAFO and its Parties.

NAFO has measures that require reporting of shark catches, prohibit removal of shark fins on board fishing vessels in the NAFO area, and ban the retention, transshipment, and landing of detached fins. They also prohibit directed fishing on Greenland sharks and call for the live release of non-directed shark species. However, the United States has expressed concern for quite some time that data reporting on shark catches is insufficient. NAFO measures require that all shark catches be reported at the species level, to the extent possible, but an examination of the 2019 catch reports revealed that this is not happening. A small working group (that includes the United States) is currently working to develop standardized methods to be used to comply with the identification and data collection requirements for Greenland sharks. This is expected to improve data reporting rates and accuracy. This group will report out at the 2021 NAFO Annual Meeting, and this output will likely then be referred to the NAFO Scientific Council for further action. Relative to protected species, the United States is seeking a comprehensive bycatch data collection program in NAFO that includes sea turtles, seabirds, and marine mammals. Political support for this effort in NAFO has been limited in the past, and a 2019 U.S. proposal on this issue was not adopted. Since that time, the United States has worked to highlight the value (from both a management and scientific perspective) of gathering this information, and we are working to build further support among NAFO Parties for a new proposal relative to protected species.

NAFO continues to work to improve the effectiveness of its IUU listing process. The issue of cross-listings between RFMOs has proven challenging and, following a failed 2019 proposal on this issue from the EU, the United States has worked within the NAFO Standing Committee on International Control to ensure that proposed cross-listings are based on similar listing criteria, and that a clear internal process is in place for full consideration of proposed listings originating in other RFMOs. The United States is currently working with the EU and Norway to develop language for consideration at the 2021 NAFO Annual Meeting.

South Pacific Regional Fisheries Management Organisation. Among its accomplishments in 2019, SPRFMO adopted a new measure requiring actions to reduce and report abandoned and lost fishing gear and encouraging the prohibition of several key sources of marine pollution. SPRFMO also adopted amendments to its IUU fishing measure to strengthen actions taken against nationals involved in IUU fishing activities.

At its meeting in 2020, SPRFMO adopted a more precautionary CMM on bottom fishing. This measure lowered the threshold (from 250 to 80 kg) for stony corals—a PLMR and key indicator species for vulnerable marine ecosystems that may be caught as bycatch in bottom fishing operations.

Also in 2020, SPRFMO adopted its first management measure for the squid fishery, establishing a minimum coverage of five full-time at-sea observers or 5 percent of fishing days for squid vessels. Another decision included squid in the SPRFMO CMM on transshipment, establishing

reporting and observer data collection requirements for transshipments of squid beginning in January 2021. Although the United States had supported stronger MCS measures for the fishery, these adopted measures are a starting point to help prevent and deter IUU fishing among vessels fishing for squid in the SPRFMO Convention area.

The United States made significant progress on its proposal for a SPRFMO high seas boarding and inspection scheme in 2020. Through its leadership and active engagement on this issue, the United States was able to garner support for its proposal and was encouraged to continue to advance progress on the proposal in advance of the 2021 annual meeting, given the strong level of support by many members.

Western and Central Pacific Fisheries Commission. In 2019, WCPFC amended its Resolution on Cooperating Non-Members (originally adopted in 2004), which provides limited participatory rights to successful applicants on a case-by-case basis. This resolution requires that cooperating non-members ensure that vessels flying their flags comply with all provisions of the WCPF Convention and WCPFC measures. The amendment addresses a number of challenges to effective conservation and management of the stocks under WCPFC's purview, including by reducing IUU fishing in the region. During 2019–2020, the Commission approved applications for cooperating non-member status from The Bahamas, Curaçao, Ecuador, El Salvador, Liberia, Nicaragua, Panama, Thailand, and Vietnam.

Also in 2019, after several years of negotiations, WCPFC adopted a comprehensive CMM applicable to all species of sharks, skates, rays, and chimaeras caught in association with WCPFC fisheries, starting in 2020. The measure prohibits finning (carcass disposal) at sea and requires that landed sharks have their fins attached (naturally or with identified alternative methods). It also lays out a series of requirements designed to reduce bycatch and ensure safe release of sharks. The measure lists species-specific requirements and contains reporting, research, and capacity-building provisions. A separate measure was also adopted prohibiting directed fishing, retention, transshipping, or landing of mobulid rays. In 2020, the Commission endorsed a shark research plan for 2021–2025. WCPFC also issued a best handling and safe release guide for sharks in 2019.

At WCPFC, the United States, in collaboration with other international partners, is working to finalize draft guidelines on non-entangling and biodegradable fish aggregating devices that, among other things, address issues of entanglement of PLMRs. The Commission delayed finalizing the draft guidelines until they could be reviewed by two of its committees. Although work was delayed due to COVID-19 complications in 2020, the Commission continues to work toward developing safe handling practices for the release of cetaceans.

In 2019 the USCG undertook considerable enforcement measures, conducting 58 boardings in the WCPFC Convention Area and identifying 32 potential CMM violations. In 2020, the USCG conducted 17 boardings, resulting in nine potential CMM violations.

VII. Other Initiatives and Issues

This chapter describes domestic legislation, regulations, and programs through which the United States combats IUU fishing, protects PLMRs, and conserves sharks. In addition, the final three sections address issues of concern to the United States—transshipment, RFMO reporting, and forced labor.

A. Maritime SAFE Act

The Maritime Security and Fisheries Enforcement Act (Maritime SAFE Act) was signed into law on December 20, 2019. Its overarching purpose is “to support a whole-of-government approach across the Federal Government to counter IUU fishing and related threats to maritime security.” It seeks to achieve this through a number of means: improving data sharing that enhances surveillance, enforcement, and prosecution against IUU fishing; supporting coordination and collaboration; increasing global transparency and traceability across the seafood supply chain; improving global enforcement operations; and preventing the use of IUU fishing as a financing source for transnational organized groups that undermine U.S. and global security interests.

The Maritime SAFE Act established an Interagency Working Group on IUU Fishing, comprised of representatives of numerous federal agencies. NOAA, the Department of State, and the USCG chair the group on a rotating basis, beginning with NOAA. It has been meeting on a regular basis since June 2020. With the structure of the group set up, it is now moving into an implementation phase that facilitates communication and collaborative actions among a variety of group members.

The Working Group has several subsidiary bodies to carry out its responsibilities. The Maritime SAFE Act required the establishment of a group on IUU fishing in the Gulf of Mexico. Additional groups will address maritime intelligence coordination, public-private partnerships, and forced labor issues. Task groups, formed as needed to focus on completing specific tasks or projects, include one for selecting priority regions and priority flag States and another for drafting a five-year strategic plan.

The Working Group developed a work plan that includes activities underway before passage of the legislation, as well as new activities on enforcement and other operations, work with partner governments, seafood import monitoring, engagement in RFMOs, and implementation of the certification and identification procedures described in Chapters IV and V of this report. The work plan will evolve as comments from the public on its content are incorporated, along with further input from Working Group members.

The Maritime SAFE Act requires numerous reports to Congress. The report on Human Trafficking in the Seafood Supply Chain was submitted in December 2020.²⁶ The report of the

²⁶ The Report to Congress on Human Trafficking in the Seafood Supply Chain can be found here: https://media.fisheries.noaa.gov/2020-12/DOSNOAAReport_HumanTrafficking.pdf?null

Gulf of Mexico IUU Fishing Subworking Group was submitted in June 2021.²⁷ Upcoming reports include an annual report on the Working Group members' efforts to investigate, enforce, and prosecute groups and individuals engaged in IUU fishing planned for June 2021, and another report on the five-year integrated strategic plan to combat IUU fishing and enhance maritime security, planned for December 2021.

B. Seafood Import Monitoring Program

The Seafood Import Monitoring Program, or SIMP, is a risk-based traceability program of permitting, reporting, and recordkeeping requirements for U.S. importers of 13 species groups identified as vulnerable to IUU fishing or seafood fraud. These requirements include the submission of key data at the time of import and maintenance of chain-of-custody documentation from the point of harvest to the point of entry into U.S. commerce. Through a transparent rulemaking process, NMFS collected information to identify particularly vulnerable species, established a traceability process, and established requirements for data reporting and recordkeeping. SIMP was designed to balance the fight against IUU fishing and seafood fraud with the burden on lawful industry and trade. To minimize impacts on legitimate trade flow, SIMP does not involve a routine examination of each and every shipment, but it does include data reporting and recordkeeping requirements that support the identification of illegal shipments through random and directed audit and inspection. As the United States imports more than 85 percent of its seafood, the implementation of SIMP provides consumers with additional confidence that the seafood they purchase at their retail markets or in restaurants is legally harvested and accurately represented.

The 13 species and species groups covered by SIMP include more than 1,100 unique species harvested through hundreds of global wild capture and aquaculture sources. These 1,100 species are particularly vulnerable to IUU fishing and seafood fraud. In the program's first few years SIMP focused primarily on implementation, as NMFS and its federal partner agencies worked with importers, exporters, and the international fishing community to ensure understanding of SIMP's regulatory requirements. More information on the implementation of SIMP and future plans for program operation is available in the SIMP Implementation Report.²⁸

During fiscal year 2020,²⁹ the United States imported more than 2.9 billion kilograms of seafood products with a combined value of more than \$21.9 billion. The volume and value of seafood species subject to SIMP imported during that period totaled 1.33 billion kilograms at a combined value of more than \$10.3 billion. Thus, SIMP products make up 45 percent of the total quantity of fish products imported into the United States and 47 percent of the combined value of imported fish products. Moreover, SIMP, as it is currently implemented, screens up to 10 percent

²⁷ NOAA. "Report of the Gulf of Mexico Illegal, Unreported, and Unregulated Fishing Subworking Group." (2021). Available at: <https://www.fisheries.noaa.gov/national/us-interagency-working-group-iuu-fishing>.

²⁸ The SIMP implantation report can be accessed online at: <https://www.fisheries.noaa.gov/international/international-affairs/seafood-import-monitoring-program-facts-and-reports>

²⁹ October 1, 2019 – September 30, 2020.

of globally traded, imported fish products. This volume allows NMFS to begin to identify and assess what seafood supply chains derive from vulnerable global fish stocks. NMFS can screen these import data to provide increased assurance that U.S. seafood imports are not fueling or supporting IUU fishing activity.

There is currently no recognized or identified methodology to accurately measure the global volume and rate of IUU fishing. Therefore, there is no way to precisely evaluate the impact of SIMP on reducing IUU fishing and seafood fraud or to quantify the product sourced from IUU fishing that is deterred from U.S. entry with certainty. NMFS measures the success of SIMP based on metrics that support the conclusion that documenting supply chains and screening import data in a manner designed to elicit the submission of valid documentation provides assurance that U.S. seafood imports are not supporting IUU fishing activity.

NMFS returns to the original principles used to identify species vulnerable to IUU fishing and seafood fraud in response to the Congressional directive contained in the Joint Explanatory Statement (JES) accompanying the Consolidated Appropriations Act, 2020. The JES required a report on the metrics used to evaluate the effectiveness of SIMP for the preservation of stocks of at-risk species around the world and the protection of American consumers from seafood fraud. These original principles encompass the JES request. In preserving at-risk species and their stocks, NMFS evaluated the enforcement capability, the effectiveness of catch document schemes, and the history of violations to identify the species and its corresponding risk. To protect American consumers from seafood fraud, NMFS evaluated the history of species mislabeling, as well as other forms of misrepresentation during processing and trade. As risk is not static, NMFS is undertaking a review of the risk-based factors and the species listed under SIMP, as well as species not subject to the program.

To that effect, NMFS has established the following metrics to measure the overall effectiveness of SIMP.

Metrics associated with audits. SIMP audits support the validation of seafood supply chains and screening of import data in a manner designed to elicit the submission of valid supply chain documentation and provide assurance that U.S. seafood imports are not fueling or supporting IUU fishing activity. The metrics associated with audits provide information on the strength and integrity of the compliance with respect to program documentation requirements and help us determine SIMP's effectiveness by ensuring that SIMP is reaching all aspects—the people, activities, and products—of the supply chain. Confidence in the supply chain ensures that minimal IUU fish and fish product is infiltrating the import stream.

The entry data and chain-of-custody documentation associated with SIMP entries are manually reviewed through random audit. The purpose of a SIMP audit is to verify the harvest and landing information provided in an entry filing as well as the sufficiency of chain-of-custody records documenting the movement of fish and fish products from harvest to point of entry into U.S. commerce.

Of the 4,977 importers who held International Fisheries Trade Permits in fiscal year 2020, 47 percent imported SIMP products and 472 underwent a SIMP audit. Of the audits completed

during that time, 43 percent were found to be noncompliant. Of the 13 species and species groups, Atlantic blue crab had the overall highest rate of noncompliance; however, the audit sample size for Atlantic blue crab is small—only 16 audits were conducted for that species. Of the three species with more than 100 audits (shrimp, tuna, and grouper), grouper had the highest rate of noncompliance at 55 percent.

To improve the rate of compliance over time it is critical to carefully review the types and frequency of findings and identify priority areas for industry engagement. NMFS categorizes audit noncompliance into four general groups; discrepancy, deficiency, no records provided, and NMFS Trade Permit Issues. The most common issues identified are discrepancies between information reported at the time of the initial entry filing and chain-of-custody records provided upon request at the time of an audit. For the 1,073 audits conducted between January 1 and December 31, 2020, 57.3 percent were compliant while 42.7 percent were found to have various noncompliance issues. Though all of the four categories are of concern, discrepancies are more commonly found to originate as clerical filing errors and not indicative of IUU fishing or fraudulent activity. NMFS staff responds to these and similar deficiencies for resolution and correction through outreach and counseling efforts with the importers and their brokers. More egregious findings receive further review and are referred for enforcement action if appropriate.

To date, SIMP entries have been selected almost exclusively at random for audit, with only a few directed audits conducted. Although random selection will remain the primary approach to identifying import entries for audit attention, NMFS will also implement directed audits as information derived from audits and other appropriate sources dictate the need to do so.

Metrics to identify and minimize trade reporting anomalies. To date, manual analysis of the audit process results have been helpful in identifying various import related anomalies and reporting discrepancies. However, metrics associated with trade reporting anomalies require the use of automated analytics to assure comprehensive and robust analysis. Information technology is being structured through SIMP technology initiatives to identify problem areas and deficiencies with documentation. NMFS, in collaboration with technical experts, recently established the first level of a cloud-based analytics system to assess and scrutinize SIMP product trade flows to model and identify key issues and anomalies in reporting and trade. Analytics using technology such as machine learning and artificial intelligence will be used to enable the recognition of deficient reporting and potential fraudulent practices. The initial research and development work conducted to establish the foundational level of analytics will be continued to expand this functionality into a robust and critical tool in the ongoing assessment of U.S. seafood imports.

Metrics associated with harvest documentation. There are thousands of fisheries and authorities that manage the legal harvest of SIMP species. A repository has been created for identified foreign fisheries and foreign fisheries laws, permits, and other harvest authorization requirements for SIMP species for use in confirming the legality of the harvest. NMFS is gathering specific information on legitimate forms, permits, and other documents that should be used to verify legal catch from another nation for a given fishery. At present, NMFS is working with the estimated 122 nations that export SIMP products, as well as gathering information on the approximately 2,805 fisheries identified through the List of Foreign Fisheries under the MMPA import provisions. Repository data are used by audit teams and will be incorporated into

the automated analysis processes as they are developed further. One of the primary benefits of this initiative is that it will allow NMFS to build a list of the SIMP products that can be definitively confirmed to be legally harvested product.

For SIMP to reach its full potential, NMFS is modernizing and integrating the infrastructure supporting SIMP. Investments for modernization include using predictive analytics to develop a smarter system for identifying risk factors and trends in shipment data to guide directed audits; developing a public interface for submitting requested documentation to streamline document submission while maintaining a secure, encrypted process that protects sensitive business information and government networks; and building better reporting and data analytics capabilities. Analytics using technologies such as machine learning and artificial intelligence will enable recognition of deficient reporting and potential fraudulent practices. Recognizing and quantifying these metrics will strengthen the ability to deter products of IUU fishing or seafood fraud from entering the United States.

C. MMPA Import Rule

The MMPA import provisions rule establishes criteria for evaluating a harvesting nation's regulatory programs for reducing incidental and intentional serious injury and mortality of marine mammals in foreign commercial fisheries. The MMPA bans importation of fish caught with commercial fishing technology that results in the incidental kill or serious injury of marine mammals in excess of U.S. standards. The rule implementing the import provisions entered into effect on January 1, 2017. To facilitate implementation, initially a five-year exemption period was included. Due to global challenges encountered during the COVID-19 pandemic, that exemption period was extended to December 31, 2022. The deadline for comparability finding applications has also changed from March 1, 2021, to November 30, 2021.

In October 2020, NOAA published its updated List of Foreign Fisheries (LOFF).³⁰ The LOFF, a comprehensive review of marine mammal bycatch in foreign fisheries exporting to the United States, is a key element for implementing the MMPA import provisions rule. The LOFF reflects the global scale of commercial fisheries from more than 130 trading partners exporting fish and fish products to the United States, and includes associated information on marine mammal interactions in the course of foreign commercial fishing operations.

Each commercial fishery included in the LOFF is classified into one of two categories, "exempt" or "export," based upon the frequency and likelihood of incidental mortality and serious injury (bycatch) of marine mammals in the course of commercial fishing operations. "Exempt" fisheries have no known, or a remote likelihood of, marine mammal bycatch in the course of commercial fishing operations. "Export" fisheries have more than a remote likelihood of marine mammal bycatch or insufficient information available on marine mammal interactions in the course of commercial fishing operations.

³⁰ https://s3.amazonaws.com/media.fisheries.noaa.gov/2020-10/LOFF_2020_IAICRS_508.pdf?null

To export fish and fish products to the United States, a fishery must receive a “comparability finding,” which requires the harvesting nation to prohibit the intentional killing of marine mammals in the conduct of commercial fishing activities by either “exempt” or “export” fisheries. For “export” fisheries, the harvesting nation must also maintain a regulatory program that is comparable to the U.S. regulatory program for reducing incidental marine mammal bycatch.

The import provisions establish two possible tracks for “export” fisheries to receive such a comparability finding. One requires population abundance estimates, bycatch monitoring and estimation, and calculation of a bycatch limit; the other requires measures comparable in effectiveness. The comparability finding application process for nations to submit their information opened November 30, 2020, and will remain open until November 30, 2021. Comparability findings are administered through an online web portal—the NOAA Fisheries International Affairs Information Capture and Reporting System. A harvesting nation must be granted a comparability finding for its fisheries to export fish and fish products to the United States starting January 1, 2023. Fish and fish products from fisheries that do not receive a comparability finding may not be imported into the United States. Comparability findings will be granted or denied on a fishery-by-fishery basis, not on a comprehensive basis for an entire nation.

D. Capacity Building and Research Efforts to Reduce Bycatch of PLMRs

Internationally, NMFS’ research has focused on the development and testing of technologies to help assess and reduce incidental bycatch of PLMRs; this effort complements NMFS’ domestic efforts to conserve these species. For example, NMFS has supported work in Spain and Brazil to better understand the post-release mortality of sea turtles caused by decompression sickness in trawl fisheries in the Southwest Atlantic Ocean. As NMFS continues to collect more information about these post-interaction mortality rates with international partners, the agency will be able to identify possible ways to address this critical conservation issue.

In collaboration with foreign partners in Indonesia, Mexico, Peru, and the Philippines, the U.S. government has sponsored extensive research on the illumination of gillnets in coastal fisheries. This illumination technology can result in decreased bycatch mortality of sea turtles, other PLMRs (including elasmobranchs), and seabirds. The potential for this research to make a substantial contribution to bycatch mitigation in coastal gillnet fisheries is significant, as research has shown a reduction in bycatch of more than 70 percent, while not affecting the catch rate of target species. Similarly, in Chile, NMFS has supported efforts to improve bycatch in artisanal fleets targeting swordfish, specifically through rapid bycatch assessments, learning exchanges among fishermen, and circle hook design experiments.

In addition, NOAA is supporting efforts in Southeast Asia to combat the illegal wildlife trafficking of sea turtles. NOAA, in partnership with local and federal authorities in the Philippines, has developed a database of interdiction records to catalog the number of sea turtles apprehended by Filipino authorities. The team also has gained access to warehouses stockpiling seized sea turtles so that they can be cataloged, with genetic samples taken for further analysis to determine their origin. This work will be vital to better understand illegal trade routes and support enforcement efforts. Building upon these efforts, NOAA helped establish the Asia-

Pacific Marine Turtle Genetics Group, which aims to enhance technical capacity to conduct turtle genetic studies in the Southeast Asia and Western Pacific region.³¹ The working group will support improved tracing of seized marine turtles and turtle products and evaluation of the risk of in-water threats such as fisheries bycatch and direct capture. To date, more than 50 participants from 12 nations have participated in these workshops.

E. Enforcement Training Assistance

By working with our enforcement partners globally, NOAA helps nations and entities to better detect and interdict IUU fish and fish products before they enter into global commerce. These efforts help to reduce the level of IUU fish and fish products being landed and exported from around the world, to support sustainable fisheries management, and to level the playing field for participants in regulated fisheries. By increasing the awareness and competency of global law enforcement partners to combat IUU fishing, NOAA is seeking to prevent illegal fishing and related unlawful activities at the source.

Throughout 2019 and 2020, NOAA worked with the following nations and regions to increase their capacity to combat IUU fishing:

Indonesia. Indonesia's Ministry of Maritime Affairs and Fisheries has developed a national training curriculum for PSMA inspectors, modeled on NOAA's PSMA program. In the fall of 2019, NOAA conducted two workshops in Jakarta to help Indonesian instructors use the draft curriculum to train its inspectors. Over the past few years, NOAA has also provided technical drafting assistance to Indonesia for its regulations implementing the PSMA, which were signed in October 2019.

Latin America and the Caribbean. In 2019, NOAA conducted MCS assessments with FAO in The Bahamas, Guyana, and Jamaica. These missions assessed their enforcement capacities so that future PSMA inspector trainings can be focused on the needs of each nation. NOAA also completed a technical assistance mission at the request of the Jamaican Fisheries Division.

In partnership with the Ministry of Production of Peru, NOAA led a PSMA inspector training in Lima in January 2020. The training included 21 Peruvian participants as well as two inspectors from Ecuador. Through classroom sessions and practical vessel boarding exercises, fisheries inspectors and other enforcement personnel gained hands-on familiarity with the requirements of the PSMA, resources available to verify fisheries records, and methods to detect IUU fishing and crimes associated with IUU fishing. These included evidence collection, case documentation, interview techniques, report writing, and information sharing. As a result of the success of this training, Ecuador has asked NOAA to conduct a similar training there.

Southeast Asia. The Department of State hosted a workshop in Phu Quoc, Vietnam, in December 2019, where USCG and NOAA personnel instructed 24 participants from Vietnam, Indonesia, Malaysia, the Philippines, and Thailand. The course provided USCG basic training for officers boarding fishing vessels, including a practical exercise on a Vietnamese vessel.

³¹ <https://www.marineturtlegenetics.org>

NOAA demonstrated how to conduct a thorough fisheries inspection and discussed the process for initiating fisheries investigations and taking enforcement actions.

Thailand. With travel restricted during 2020, NOAA reached out to global partners to offer remote support for any needs regarding IUU fishing. Thai officials expressed concern over a shift in tuna imports and suspicious fisheries products in containers. NOAA provided technical guidance on reviewing container shipments and import documentation, and received positive feedback from Thailand for that assistance.

Vietnam. NOAA hosted a dialogue with senior officials from Vietnam in November 2019. The purpose of the meeting was to exchange fisheries law enforcement best practices and strengthen U.S.-Vietnamese efforts to combat IUU fishing. Participants visited the Federal Law Enforcement Training Center, the USCG Maritime Law Enforcement Academy, and the NMFS Forensics Unit, and accompanied NOAA and Florida enforcement agents on patrol.

F. Monitoring and Control of Transshipment

Transshipment is a practice in which harvested fish are transferred directly from the catching vessel to another vessel, typically a refrigerated carrier vessel. Transshipment at sea allows catching vessels to spend more time at sea harvesting fish rather than steaming into port to offload catch—an obvious economic advantage. On the other hand, transshipment in port expedites delivery from that port to a final market State or to another nation for processing. Whether in-port or at-sea, transshipment poses concerns to those charged with monitoring and controlling fishing vessels, as it can obscure the origin of catches sent on to port or market States. In addition, transshipment at-sea has been implicated as a factor contributing to labor abuses on board catching vessels that remain at sea for extended periods of time.

For enhanced monitoring, many nations and several RFMOs have implemented controls on transshipment, such as registering carrier vessels; placing observers on board vessels; requiring that transshipment declarations be completed by both harvesting and carrier vessels; and, when occurring in port, boarding and inspecting the catching vessel prior to its offloading to the carrier vessel. The United States has sponsored or supported recent efforts to improve measures to control and monitor transshipment at meetings of several RFMOs.³² The United States expects to participate actively in this multilateral effort, including the FAO initiative described below, to improve monitoring and control of transshipments.

Through its Committee on Fisheries (COFI), FAO has undertaken an in-depth study of the practice of transshipment. During its 2018 meeting, the United States called on FAO to assess transshipment practices, paying attention to quantitative as well as qualitative aspects of the activity and assessing the importance of the practice to the fishing industry. COFI in 2021 considered that study's findings and recommendations.³³

³² Details of these efforts appear in Chapter VI.C.

³³ <http://www.fao.org/iuu-fishing/tools-and-initiatives/transshipment/en/>

Concerned about the risks of inadequately controlled transshipment in relation to IUU fishing, FAO members called upon the FAO Secretariat to proceed with developing draft voluntary guidelines for the regulation, monitoring, and control of transshipment. They asked FAO to convene an expert consultation to review the draft, followed by a member-led negotiation process through the convening of a technical consultation. The goal is for COFI to endorse these voluntary guidelines at its 2022 meeting. Members also noted that there are different types of transshipment operations, not all of which have negative impacts on the sustainability of fisheries, and that consideration should be given to regional varieties of transshipment operations. Furthermore, members emphasized that development of these guidelines should strengthen existing regional mechanisms and practices, and that RFMOs should proceed with actions to control transshipments, rather than waiting for the guidelines to be developed.

G. RFMO Reporting Concerns

In the course of reviewing RFMO compliance documents for this report, NMFS noted several instances of RFMO members and cooperating non-members failing to fulfill reporting obligations. This issue was also highlighted in the public input we received from the Natural Resources Defense Council and Earthjustice. Without complete, accurate reporting information, RFMOs have a reduced ability to monitor compliance with CMMs and to identify IUU fishing activities within their convention areas. NMFS is concerned about these reporting deficiencies and maintains that failure to report is considered a serious form of noncompliance, especially when the failure to report is repeated or persistent.

In evaluating nations and entities for identification, NMFS considers whether a nation or entity has implemented and is enforcing RFMO measures. As stated in the Federal Register notice requesting comments on this process,³⁴ such measures include “data collection and catch reporting programs, including observer programs, catch documentation programs, and trade tracking schemes,” and “programs documenting whether fish were caught in a manner consistent with conservation and management measures.” Severe reporting deficiencies, or minor reporting deficiencies observed as a pattern over several years, may be cause for a nation or entity to be identified in future biennial reports to Congress.

H. Forced Labor

Combating human trafficking in all its forms, including forced labor, is a priority for the United States. Federal agencies are committed to taking action to end this practice and ensuring that products produced with forced labor do not enter U.S. markets. Addressing forced labor is particularly challenging within the seafood industry.

Fishing work can be isolating, with vessels sometimes spending months or even years at sea. This system impedes the escape from, or the reporting of, labor abuse. Some examples of the

³⁴ <https://www.federalregister.gov/documents/2020/06/30/2020-14028/identification-of-nations-engaged-in-illegal-unreported-or-unregulated-fishing-bycatch-or-shark>

exploitation sustained by fishing sector workers are physical and emotional abuse, sometimes resulting in death; excessive overtime; poor living conditions; deceptive or coercive recruiting; and non-payment or underpayment of wages.

To that end, the safety and welfare of personnel on fishing vessels, both domestically and abroad, remain important concerns to NMFS, which has strengthened interagency cooperative initiatives to combat forced labor in the global seafood supply chain. These efforts include working with the Department of Homeland Security's U.S. Immigration and Customs Enforcement's Homeland Security Investigations, as well as U.S. Customs and Border Protection (CBP). NMFS has authority under the MSA and a number of other statutes to board and inspect fishing vessels in U.S. ports; if indicators of forced labor are observed, they are documented and referred to those other agencies. NMFS further supports CBP by providing information about allegations of forced labor on vessels, and subject matter expertise on the fishing industry and its operations. NMFS provides relevant data from SIMP to identify vessels suspected of forced labor. This information has enabled CBP to conduct forced labor investigations and block product produced with forced labor from entering U.S. markets.

More broadly, NMFS continues to promote decent work practices and fight labor abuses in the seafood sector, in bilateral and international fora. The non-binding resolution on labor standards for crew, passed by WCPFC in 2018, has served as a template for discussions in other RFMOs and multilateral organizations. The International Maritime Organization, the International Labour Organization, and FAO participate in the Joint Ad-hoc Working Group on IUU Fishing and Related Matters, which last met in October 2019. The group, including NOAA officials, agreed on the need for greater collaborative and targeted efforts to combat forced labor and other labor abuses in the seafood industry, in advance of the next meeting of the working group in 2023.

To address the issue of human trafficking, including forced labor, in the seafood sector, NOAA and the Department of State submitted a joint report to Congress on "Human Trafficking in the Seafood Supply Chain" in December 2020.³⁵ The report lists 29 countries and territories most at risk for human trafficking in their seafood sectors.³⁶ The report documents the quantity and value of seafood imports from each listed country and territory, as well as addressing seafood traceability programs in each listed country and territory. The report also discusses current U.S. Government efforts to combat human trafficking in the seafood industry, and provides recommendations for legislative and administrative action to combat human trafficking in this sector. One of these recommendations is a commitment to exploring how federal agencies can work in a whole-of-government approach to addressing labor abuses in this sector. Other recommendations include outreach to listed countries and territories, promotion of global

³⁵ https://media.fisheries.noaa.gov/2020-12/DOSNOAAReport_HumanTrafficking.pdf

³⁶ See also the Department of State's 2020 Trafficking in Persons Report, <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>, and the Department of Labor's 2020 List of Goods Produced by Child Labor or Forced Labor, <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

traceability efforts and international initiatives to address human trafficking, and strengthened collaboration with industry to address human trafficking in the seafood supply chain.

Appendix 1: International Fisheries and Related Agreements and Organizations

To provide basic knowledge of the multilateral agreements, RFMOs, and related international organizations concerning living marine resources of which the United States is a member or that are of substantial interest to the United States, a list of many such organizations and agreements, with brief descriptions, follows.

Global

United Nations Convention on the Law of the Sea. This treaty sets the jurisdictional framework and rules for the use and management of the oceans, including general requirements concerning marine conservation. The Convention currently has 168 parties; the United States is not yet a party, but views many Convention provisions, including those related to fisheries, as reflecting customary international law, and operates consistently with those provisions.

Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. This agreement provides more specific rules for the conservation and management of straddling and highly migratory fish stocks, including application of the precautionary approach, ecosystem-based management, a requirement that nations with vessels fishing on the high seas either join the appropriate RFMO or apply the CMMs established by that RFMO to its fishing vessels, and other similar requirements. The 1995 agreement, which entered into force in 2001, now has 91 parties, including the United States.

Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (FAO Compliance Agreement). This agreement requires flag States to exercise control over their vessels on the high seas to ensure they follow applicable conservation and management regulations. The agreement was adopted in 1993 and entered into force in 2003. It has 42 parties, including the United States.

Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA). This agreement requires parties to take actions to prevent IUU fish and fish products from entering the stream of commerce. Parties must restrict port entry and access to port services to vessels that have engaged in IUU fishing, with certain exceptions. The PSMA entered into force in 2016. There are currently 69 parties to the agreement, including the United States and the EU.

FAO Code of Conduct for Responsible Fisheries. This non-binding document, prepared in 1995, sets forth principles and international standards of behavior for responsible fisheries practices, to ensure effective conservation, management, and development of living aquatic resources.

International Whaling Commission. The IWC was established under the International Convention for the Regulation of Whaling in 1946. The primary function of the IWC is to establish and revise measures governing the conduct of whaling throughout the world. The Commission currently has 88 parties, including the United States.

Convention on International Trade in Endangered Species of Wild Fauna and Flora. CITES provides for the protection of certain species of wild fauna and flora, including certain living marine species, against over-exploitation, through regulation of international trade. Under CITES, species are listed in Appendices according to their conservation status: Appendix I (threatened with extinction); Appendix II (may become threatened with extinction unless trade is strictly regulated); and Appendix III (species that any party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and that need the cooperation of other parties in the control of trade). Currently, there are 183 parties to CITES: 182 nations, including the United States, and one regional economic integration organization, the EU.

Agreement on the Conservation of Albatrosses and Petrels. ACAP, a legally binding agreement, was established under CMS (see Part VIII.A); it has 13 parties. Its purpose is to achieve and maintain a favorable conservation status for albatrosses and petrels. ACAP parties work to enhance the understanding of the conservation status of albatrosses and petrels and their susceptibility to a range of threats, as well as to promote effective means of mitigating those threats. Although not a party, the United States participates in ACAP meetings as an observer.

Memorandum of Understanding on the Conservation of Migratory Sharks. This non-binding instrument, negotiated under the auspices of the CMS, provides an international framework for coordinating sustainable management and conservation efforts for seven species of migratory sharks. The MOU has 49 signatories, including the United States, and 15 cooperating partners.

Western Hemisphere

Inter-American Convention for the Protection and Conservation of Sea Turtles. This treaty is the only binding convention for the protection and conservation of sea turtles in the world. It specifically protects six of the seven species of sea turtles: loggerhead, green, leatherback, hawksbill, olive ridley, and Kemp's ridley. This Convention entered into force in 2001 and has 16 parties, including the United States.

Specially Protected Areas and Wildlife Protocol (SPAW Protocol). The United States is a party, along with 24 other countries, to the SPAW Protocol of the Convention for the Protection and Development of the Marine Environment in the Wider Caribbean Region, otherwise known as the Cartagena Convention. The Convention and its protocols cover the marine environment of the Gulf of Mexico, Caribbean Sea, and adjacent areas of the Atlantic Ocean. The SPAW Protocol constitutes a legal commitment by contracting parties to protect and manage their common coastal and marine resources, including threatened and endangered species, individually, jointly, and in a sustainable manner.

Atlantic Ocean

International Commission for the Conservation of Atlantic Tunas. ICCAT provides for international cooperation in conservation and management, including scientific research, for tunas and tuna-like species in the Atlantic. It covers all waters of the Atlantic Ocean, including

the adjacent seas. ICCAT has 52 contracting parties, including the United States, plus five cooperating non-members.

North Atlantic Salmon Conservation Organization. This RFMO has jurisdiction over salmon stocks migrating beyond areas of coastal State jurisdiction in the Atlantic Ocean north of 36° N throughout their migratory range. It has six parties, including the United States.

North East Atlantic Fisheries Commission. The area covered by the NEAFC Convention stretches from the southern tip of Greenland, east to the Barents Sea, and south to Portugal. NEAFC has six members and three cooperating non-members.

Northwest Atlantic Fisheries Organization. NAFO's Convention Area is located within the waters of the Northwest Atlantic Ocean roughly north of 35° N and west of 42° W. The principal species managed are cod, flounders, redfish, American plaice, Greenland halibut (turbot), capelin, shrimp, hake, and squid. NAFO has 14 contracting parties, including the United States.

Southeast Atlantic Fisheries Commission. The SEAFO Convention, which entered into force in 2003, regulates fisheries outside EEZs in the Southeast Atlantic Ocean. Species covered include fish, mollusks, crustaceans, and other sedentary species, except species subject to coastal State jurisdiction and highly migratory species. There are currently seven parties. The United States signed the Convention, but is not a party because no U.S. vessels are actively fishing for SEAFO-managed species in the area.

Western Central Atlantic Fishery Commission. WECAFC is a regional body established in 1973 under article VI(1) of the FAO Charter. As such, it does not have management authority for fisheries in the region, but helps members to promote effective conservation, management, and development of living marine resources in accordance with the FAO Code of Conduct for Responsible Fisheries. The Commission also addresses common problems of fisheries management and development faced by its members. WECAFC is composed of all 33 countries in the Wider Caribbean region and the EU.

Pacific Ocean

Western and Central Pacific Fisheries Commission. The WCPFC manages tuna and other highly migratory species in the western and central Pacific Ocean. The Convention entered into force in 2004. It currently has 26 members, including the United States; seven participating territories; and nine cooperating non-members.

South Pacific Regional Fisheries Management Organization. The Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean entered into force on August 24, 2012. Its objective is to ensure the long-term conservation and sustainable use of fishery resources and to safeguard the marine ecosystems in which these resources occur. The Convention has 15 members, including the United States, which became a party to the Convention on February 18, 2017. Three other nations are cooperating non-contracting parties.

North Pacific Fisheries Commission. The goal of the NPFC is to ensure the long-term conservation and sustainable use of the fisheries resources in the high seas areas of the North Pacific Ocean, while also protecting the marine ecosystems in which these resources occur. It establishes a management framework for all fisheries not already covered under existing international instruments, with a particular focus on bottom fisheries. Once the EU joined in 2020, the Commission has nine members, including the United States, and one cooperating non-contracting member.

South Pacific Tuna Treaty. This agreement provides U.S. tuna purse seine vessels access to fish in the waters of the Pacific Island parties to the treaty. Although not a fisheries management arrangement, it is referenced in this report because it contains some important and forward-looking monitoring and control provisions, including observer and VMS requirements. The treaty has 17 parties, including the United States. It is administered by the Forum Fisheries Agency, comprised of the 16 Pacific Island parties. In December 2016, the United States and Pacific Island parties signed a revised treaty that includes the terms of fishing access for the U.S. purse seine fleet to Pacific Island waters through 2022.

Inter-American Tropical Tuna Commission. The IATTC manages tunas, tuna-like species, and other species taken by tuna-fishing vessels in the Eastern Pacific Ocean. The Commission has 21 members, including the United States, plus five cooperating non-members.

Agreement on the International Dolphin Conservation Program. This agreement establishes legally binding mechanisms to reduce incidental dolphin mortality in the tuna purse seine fishery in the Eastern Pacific Ocean to levels approaching zero. The agreement has 14 parties, including the United States, plus two nations that apply the agreement provisionally.

North Pacific Anadromous Fish Commission. The NPAFC promotes the conservation of anadromous stocks (salmon) and ecologically related species, including marine mammals, seabirds, and non-anadromous fish, on the high seas of the North Pacific, the Bering Sea, and the Sea of Okhotsk, north of 33° N. It has five parties, including the United States.

Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea. This Convention was established to conserve and manage pollock resources in the high seas area of the Bering Sea (the “donut hole”). It has six parties, including the United States.

Pacific Salmon Commission. The PSC implements the United States-Canada Pacific Salmon Treaty. Four commissioners and four alternates from each nation represent the interests of commercial and recreational fisheries as well as federal, state, and tribal governments. The PSC provides regulatory advice and recommendations to the two parties with regard to salmon originating in waters of one nation that are subject to interception by the other, salmon that affect the management of the other nation’s salmon, and salmon that biologically affect the stocks of the other nation.

International Pacific Halibut Commission. Established by treaty between the United States and Canada, the Commission’s mandate covers research on and management of the stocks of Pacific

halibut within Convention waters of both nations. The Commission consists of three government-appointed commissioners for each nation.

Memorandum of Understanding for the Conservation of Cetaceans and their Habitats in the Pacific Islands Region. Negotiated under the auspices of the CMS, this non-binding MOU provides an international framework for coordinated conservation efforts for cetaceans and their habitats in the Pacific Islands Region. The MOU has 15 signatories, including the United States.

Asia-Pacific Economic Cooperation. APEC is a regional economic forum established in 1989 to promote balanced, inclusive, sustainable, innovative, and secure growth by accelerating regional economic integration. APEC has 21 member "Economies" including the United States. The organization maintains Subfora and Dialogues addressing a range of economic and trade-related topics, including an Ocean and Fisheries Working Group and a Policy Partnership on Food Security.

Southern Ocean

Commission for the Conservation of Antarctic Marine Living Resources. With the exceptions of any commercial seal hunt south of 60° S and all whaling activities, CCAMLR conserves and manages all marine living south of the Antarctic Convergence (varying between 45°S and 60°S). There are 26 members of the Commission, including the United States. Another 10 countries have acceded to the Convention. These countries have agreed to be legally bound by the Convention and any CMMs adopted by CCAMLR, but they do not contribute to the budget or participate in decision-making.

Convention for the Conservation of Antarctic Seals. The Convention is designed to promote and achieve the protection, scientific study, and rational use of Antarctic seals, and to maintain a satisfactory balance within the ecological system of Antarctica. It prohibits the killing or capture of seals in the area south of 60°S, except as specifically provided for in the Convention. It has 14 parties, including the United States.

Arctic Ocean

The Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean (CAO Agreement). The CAO Agreement represents a precautionary approach to the management of high seas fish stocks before commercial fishing begins, and was undertaken in response to developments in the Arctic due to a changing climate. The Parties agreed to authorize their vessels to conduct commercial fishing in the CAO only after international mechanisms are in place to manage any such fishing. In support of this commitment, the Agreement will establish a joint program of scientific research. The Agreement entered into force on June 25, 2021; it has 10 parties, including the United States.

Indian Ocean

Indian Ocean Tuna Commission. The aim of the IOTC is to conserve, and promote optimum utilization of, tuna and tuna-like species in the Indian Ocean and its adjacent seas. While there

are general conservation, management, and rebuilding measures, the IOTC has yet to adopt any catch limitations. The IOTC has 31 parties and two cooperating NPCs. The United States is not a party to the convention, but does participate as an observer.

Indian Ocean-South East Asian Marine Turtle Memorandum of Understanding. This MOU operates as a non-binding instrument under the CMS. It provides a framework for the region to work together to conserve and replenish depleted marine turtle populations for which they share responsibility. The MOU has 35 signatories, including the United States.

Mediterranean Sea

General Fisheries Commission for the Mediterranean. This RFMO was established under provisions of the FAO Constitution. Its main objective is to ensure the conservation and sustainable use of living marine resources, as well as the sustainable development of aquaculture, in the Mediterranean and in the Black Sea. It has 24 parties, not including the United States.

Appendix 2: U.S. Laws Relevant to IUU Fishing, PLMR Bycatch, and Shark Conservation

Magnuson-Stevens Fishery Conservation and Management Act. Originally enacted in 1976, the MSA, 16 U.S.C. § 1801 *et seq.*, is the foundational legislation for the conservation and management of fisheries within the U.S. EEZ. Besides establishing the framework for regulating U.S. fisheries, the Act contains specific and extensive prohibitions and enforcement authorities to ensure a high rate of compliance with regulations governing both domestic and foreign fishing within the EEZ.

High Seas Driftnet Fishing Moratorium Protection Act (1995). The original provisions of the Moratorium Protection Act, 16 U.S.C. §§ 1826d-1826g, prohibit the United States from entering into international agreements that would prevent full implementation of the UN Moratorium on Large-Scale High Seas Driftnets. The Act has been amended by the four statutes listed immediately below.

High Seas Driftnet Fisheries Enforcement Act of 1992. This Act, 16 U.S.C. 1826a-1826c, seeks to end the use of large-scale driftnets by foreign fisheries operating beyond the EEZ of any nation. Among other provisions, the Act authorizes identification of nations whose vessels are engaging in high seas fishing with large-scale driftnets; such identification may lead to limitations on port entry and on the importation of certain products from those nations.

Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006. The MSRA, 16 U.S.C. §§ 1826h-1826k, amended the Moratorium Protection Act and directed substantial attention to fishing issues outside U.S. waters, particularly IUU fishing and bycatch of PLMRs. The amended Moratorium Protection Act calls on the Secretary of Commerce to urge other nations and RFMOs to address IUU fishing and to put into place regulatory measures to end or reduce bycatch of PLMRs. Title IV also established an identification and certification procedure for nations whose vessels engage in IUU fishing, bycatch of PLMRs, or certain shark fishing practices.

Shark Conservation Act of 2010. The SCA, 16 U.S.C. § 1801 note, amended the Moratorium Protection Act to promote adoption by RFMOs of shark conservation measures, including banning removal of any of the fins of a shark and discarding the carcass at sea. The Act amended the Moratorium Protection Act's definition of IUU fishing to add an explicit reference to violation of international shark conservation measures, and to provide for identification of a nation for activities related to shark conservation.

Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2015. The IUU Fishing Enforcement Act (P.L. 114-81) amended several existing statutes including the Moratorium Protection Act to strengthen mechanisms to stop IUU fishing. It increased to three years the allowable time period for consideration of activities for identification of nations for IUU fishing or bycatch of PLMRs. Another amendment made it possible to identify nations for their own actions or inactions with regard to IUU fishing activities, separate and apart from specific actions

of vessels flagged to the nations. The IUU Fishing Enforcement Act also implemented U.S. accession to the FAO Port State Measures Agreement, codified at 16 U.S.C. 7401 *et seq.*

Maritime Security and Fisheries Enforcement Act (2019). The purpose of the Maritime SAFE Act is to support a whole-of-government approach to counter IUU fishing and related threats to maritime security. An Interagency Working Group on IUU Fishing has been formed pursuant to this Act. Comprising 21 agencies, this Working Group serves as the lead body for the U.S. government in coordinating collaborative actions and facilitating communication and engaging with stakeholders in efforts to combat IUU fishing and strengthen maritime security.

Ensuring Access to Pacific Fisheries Act (2016). This Act, 16 U.S.C. § 7701 *et seq.*, amended the Moratorium Protection Act with technical changes to the identification and certification process. These included a three-year period for identification of a country for certain shark fishing activities, and making the deadline for the MSRA report June 1 rather than January 12 of the reporting year.

Lacey Act. The Lacey Act, 16 U.S.C. §§ 3371-3378, prohibits the import, export, transport, sale, possession, or purchase in interstate or foreign commerce of any fish or wildlife taken, possessed, transported, or sold in violation of any U.S. federal or state law or regulation or of any foreign law. The two-part prohibition requires evidence of a violation of domestic or foreign law, and also evidence of trafficking. The United States has used the law to prosecute foreign individuals who import fish caught without authorization in another country's EEZ.

Marine Mammal Protection Act. The MMPA, 16 U.S.C. § 1361 *et seq.*, aims to reduce the incidental kill or serious injury of marine mammals in the course of commercial fishing to insignificant levels, approaching zero. The Act prohibits "taking" (actual or attempted harassment, hunting, capture, or killing) and importation into the United States of marine mammals except where explicitly authorized. The MMPA also bans the importation of fish caught with commercial fishing technology that results in the incidental kill or serious injury of marine mammals in excess of U.S. standards.

Endangered Species Act. This Act, 16 U.S.C. § 1531 *et seq.*, provides for the conservation of species in danger of extinction throughout all or a significant portion of their range. The Act lists species as either "threatened" or "endangered." When a species is endangered, it is protected from being "taken" (actual or attempted) through harassment, harm, pursuit, hunting, killing, shooting, wounding, capturing, or collection. Similar prohibitions usually extend to threatened species. The Act also provides for U.S. implementation of limitations on trade in species listed under CITES.

Appendix 3: Issues of Concern Not Forming the Basis of an IUU Fishing Identification

In the course of researching IUU fishing issues for the purposes of this report, some matters of concern came to light. While they do not form the basis of any IUU fishing identification, NMFS is including the information in this report for awareness and possible further research or monitoring.

Ukraine: Gear unintentionally entering the CCAMLR Convention Area. In 2020, Ukraine provided a report to CCAMLR explaining that the F/V *Simeiz* had set two lines outside of the Convention Area but, due to weather conditions, the lines were hauled within Subarea 48.3 of that area. A submitted catch effort form reported the catch there was eight Patagonian toothfish, the directed fishing for which is prohibited within that subarea.

Ukraine investigated the issue and confirmed the crew's actions were "not purposeful." Ukraine reported the following corrective actions: the crew underwent additional training and instruction, the company applied financial penalties to the master and fishing master, the fishing vessel's permit for Subarea 41.3 in 2020 was withdrawn, and the operating company expressed its desire to make a voluntary financial contribution to CCAMLR's budget. Ukraine assessed itself as noncompliant. Ukraine provided VMS data that show heavy fishing pressure just north of the Convention Area boundary, and sometimes inside the Convention Area, for several weeks in 2020.

As documented in the preliminary report of the CCAMLR meeting, the United States thanked Ukraine for its information on the F/V *Simeiz* regarding its noncompliance and voluntary, responsive actions by the company, but also asked what action was taken by Government of Ukraine against the vessel, its owner, or its master, and how it will implement the suggested buffer of 10 nautical miles as a safeguard against this problem occurring in the future. The answers to these questions remain outstanding. NMFS also notes with concern Ukraine's failure to respond to its draft compliance report within the required 45 days before the annual meeting. Ukraine instead responded via a circular issued only five days before the meeting.

This issue is not the basis of an IUU fishing identification because it was investigated by the Ukrainian authorities and determined to be an accident. NMFS looks forward to working with Ukraine via the multilateral CCAMLR process to resolve these issues.

Ecuador: Commercial longliners in the Eastern Pacific. In January 2019, the NGO Sea Shepherd witnessed the Ecuador-flagged F/V *La Ahijada*, an authorized IATTC longline fishing vessel, working in concert with eight small artisanal skiffs approximately 45 nautical miles west of Ecuador's EEZ surrounding the Galapagos Islands. It appeared that the skiffs, with two crew members each, would work manual longline gear while the F/V *La Ahijada* hauled its longline gear. The skiffs would then bring their catch back to the F/V *La Ahijada* and tie off behind the fishing vessel for onward movement. Sea Shepherd witnessed this type of arrangement two other times in the vicinity of that occurrence.

This issue is not the basis of an IUU fishing identification because it does not represent a clear violation of an IATTC conservation measure. NMFS looks forward to working with Ecuador via the multilateral IATTC process to resolve the catch reporting issues this kind of operation presents to IATTC.

Japan: Allegations of illegal shark finning. According to the Greenpeace report, “Choppy Waters: Forced Labor and Illegal Fishing in Taiwan’s Distant Water Fisheries,” one or two fishermen witnessed the transshipment of shark fins from an unnamed Japanese longliner authorized to operate in the ICCAT Convention Area, sometime between July 25 and December 19, 2019. This would represent a violation of ICCAT conservation measures on shark conservation and transshipment.

This issue is not the basis of an IUU fishing identification because Japan has recently demonstrated the willingness and ability to investigate allegations of this nature via their cooperation with the U.S. investigation into the F/V *Kyoshin Maru No. 20*, which resulted in the largest monetary penalty ever imposed in a U.S. shark finning case.³⁷ NMFS looks forward to learning the results of this investigation and further working with Japan to improve shark-related conservation measures at RFMOs, such as requiring that sharks be landed with fins naturally attached.

European Union: Bluefin tuna smuggling operation. In 2018, the Spanish government, in coordination with Europol, launched the “Tarantelo Operation” to dismantle a smuggling operation that transported illegally harvested Eastern Atlantic and Mediterranean bluefin tuna (EBFT) into EU markets. The scale of this smuggling network was substantial, with estimates placing the annual illegal catch at double those of legal limits. During ICCAT’s Compliance Committee meetings in 2019, the EU was asked to address the reported allegations and whether these activities may have led to IUU fish and fish products entering trade. The EU indicated that it and its member States were fully cooperating with criminal investigations on trade within the EU of the allegedly illegal product. The EU committed to conducting internal Member State audits and to providing updates to ICCAT at its next annual meeting. The EU further stressed the importance of determining the origin of the fish and placed blame on structural limitations within ICCAT’s EBFT management measures that allowed for potentially illegal activities to occur.

Following ICCAT’s 2019 annual meeting, the EU noted actions being taken at the Commission level and by Member States. The Commission opened an infringement investigation against Malta in 2020 over alleged inadequacy of the MCS system in place for its bluefin tuna farming operations; due to the ongoing nature of the investigation, the EU has been unable to provide substantial details to ICCAT or bilaterally. On a member State level, the EU reported that Spain had begun an in-depth investigation in its high courts.

³⁷ <https://www.justice.gov/usao-hi/pr/owner-japanese-fishing-vessel-pleads-guilty-unlawful-trafficking-shark-fins-and-sentenced>

Media reports further indicate that Malta has not yet brought a criminal case against those involved in the operation and may never do so. Despite the EU's ongoing investigations against Malta and the lack of effective fishery monitoring and control that led to the involvement of Maltese interests in the smuggling operations, the EU plans to transfer 15 percent of Italy's EBFT quota to Malta.

This issue is not the basis of an IUU fishing identification because it remains under investigation and investigations of this complexity can take many years to conclude. However, NMFS remains concerned about the slow progress of the investigations and the lack of transparency regarding the situation. It is unclear whether the underlying issues resulting in these activities are being sufficiently addressed. If not, such smuggling operations may recur. NMFS is also concerned that the level of quota overharvests related to these smuggling operations may never be fully known or repaid per ICCAT rules. NMFS will continue to seek updated information from the EU on the scope and extent of the smuggling operation, the progress of investigations, MCS weaknesses that permitted the activity to occur undetected for years, steps being taken by member States to address fishery and farming management weaknesses, and enforcement actions being taken against those responsible for these violations, including the imposition of penalties severe enough to deter similar activities in the future. NMFS will also encourage the EU to provide timely updates on these matters to ICCAT.



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